

EXHIBIT 2

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX ADMINISTRATION OF THE
KINGDOM OF DENMARK
(SKATTEFORVALTNINGEN) TAX REFUND
SCHEME LITIGATION

This document relates to all cases listed in Appendix A.

MASTER DOCKET

18-md-2865 (LAK)

EXPERT REPORT OF MARCIA S. WAGNER

CONFIDENTIAL PURSUANT TO RULE 26(C) PROTECTIVE ORDER

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I, Marcia S. Wagner, hereby submit the following Expert Report in connection with the above-captioned matter.

PURPOSE OF THE EXPERT ENGAGEMENT

1. Counsel for Skatteforvaltningen (“SKAT”),¹ which is the Customs and Tax Administration of the Kingdom of Denmark, has requested my expert opinion on the standards applicable to the qualification and administration of 401(k) retirement plans, and on whether the 193 plans at issue in this report (the “Plans”) met those standards.² Counsel has also requested my opinion on the professional standards that applied to the defendant Michael Ben-Jacob (“Ben-Jacob”), a New York lawyer and partner at Kaye Scholer LLP (“Kaye Scholer”), in connection with certain of the Plans, and on whether Ben-Jacob departed from applicable professional standards.

QUALIFICATIONS

2. I am the principal of The Wagner Law Group, A Professional Corporation, which I founded approximately twenty-five years ago, and an attorney working exclusively in the area of pension and employee benefits law. I am also a *summa cum laude* and *Phi Beta Kappa* graduate of Cornell University and a graduate of Harvard Law School. I have practiced law in Boston for approximately thirty-five years and have been a partner in two major law firms.

3. As an employee benefits attorney, I have had numerous engagements representing plan sponsors, fiduciaries and providers of services and investments to plans in their dealings with the Internal Revenue Service (“IRS”) on such matters as fiduciary responsibility and prohibited transactions. I have been involved in all phases of plan design, plan document

1. I was informed by counsel for Plaintiff that at the time of the events alleged in the complaint, Plaintiff was known as “SKAT.” Pursuant to Danish Legal Order 804, entered on June 6, 2018, Plaintiff changed its legal name to Skatteforvaltningen, effective July 1, 2018.

2. These 193 plans are listed in Appendix A.

preparation, formation and monitoring of investment transactions, and due diligence with respect to plan investments and service providers.

4. I have had the opportunity to serve as an Independent Fiduciary for numerous employee benefit plans. In this capacity, I have advised benefit plans with respect to restructuring investment opportunities that might otherwise violate the prohibited transaction provisions contained in the Internal Revenue Code of 1986, as amended (the “Code” or the “IRC”) and Employee Retirement Income Security Act of 1974, as amended (“ERISA”), in order to qualify for an applicable exemption.

5. My services rendered to plan fiduciaries with respect to advising or consulting regarding investments have included: (i) advising on the design and structure of plan investments; (ii) counseling such bodies on the due diligence process relating to the engagement of investment advisors and managers, along with the information to be considered, decision-making processes, and documentation recommended before making a final decision; and (iii) recommending the processes that fiduciaries use for the selection, monitoring and retention of plan investments.

6. I have been recognized as a national expert in a variety of employee benefits matters, including ERISA’s fiduciary requirements. I was appointed by the Secretary of the Treasury to serve on the IRS’s Advisory Committee on Tax-Exempt and Government Entities (“ACT”), and I served as the former Project Chair of its Employee Plans subcommittee. As part of this appointment, I was as a member of the ACT Advisory Panel that advised the IRS on certain operational policies and procedures, and in 2009 I prepared and presented a project entitled “International Pension Issues in a Global Economy: A Survey and Assessment of IRS’ Role in Breaking Down the Barriers.”

7. I am the recipient of the IRS Commissioner's Award (that agency's highest honor) relating to my service on behalf of the IRS Tax Exempt & Government Entities Division. I have also been inducted as a Fellow of the American College of Employee Benefits Counsel.

8. I am a frequent lecturer and author in the employee benefits area, and I have authored Bureau of National Affairs ("BNA") Tax Management Portfolios, entitled "EPCRS – Plan Correction and Disqualification" and "Plan Disqualification and ERISA Litigation," for which I received the BNA Distinguished Author Commendation. I have also authored, among other books and articles, the BNA Tax Management Portfolio: "ERISA Litigation, Procedure, Preemption and Other Title I Issues."

9. I have been listed as a "Massachusetts Super Lawyer" by Boston Magazine, and have an AV peer review rating by LexisNexis Martindale-Hubbell indicating a very high to preeminent legal ability and integrity. I have also been named one of the 100 Most Influential Persons in the Pension Industry by 401(k) Wire for eight years.

10. My current resume is attached as Appendix B to this Report. A current list of my publications appears in Appendix C, and the cases listed in Appendix D represent all the cases in which I have testified or submitted an Expert Report. A list of the information considered for purposes of this Report is contained in Appendix E.

PREPARATION OF REPORT

11. I am being paid an hourly fee of \$995 for my services in this engagement. My fee is not contingent on the outcome of this action or the conclusions expressed in this Report. In preparing this Report, I have received assistance from staff employed by The Wagner Law Group.

SUMMARY OF OPINIONS

I. THE PLANS WERE NOT QUALIFIED AS TAX-EXEMPT UNDER THE INTERNAL REVENUE CODE AND THUS WERE NOT ENTITLED TO THE DIVIDEND WITHHOLDING TAX REFUNDS.

12. The treaty on double taxation between the United States and Denmark (the “Treaty”)³ permits a refund of Danish dividend withholding tax (“DWT”) to certain tax-exempt U.S. entities, including qualified 401(k) pension plans. DWT is paid by large Danish companies directly to Plaintiff SKAT, and under the Treaty, qualified U.S. entities may submit DWT refund applications to SKAT. As part of their applications, over 270 U.S. pension plans, including the 193 Plans which are the subject of this report, represented to SKAT that they owned the relevant shares on the relevant record date and that they were tax-exempt under section 401(a) of the Code. It is my opinion that the Plans were not qualified as tax-exempt under section 401(a) of the Code and therefore did not qualify for the DWT refunds they received from SKAT.⁴

A. The Plans Were Not Qualified under the Code.

13. The Code and/or the IRS require that tax-qualified pension plans be: (1) created and administered for the exclusive benefit of plan participant(s); (2) funded in accordance with the IRC; (3) permanent as opposed to temporary programs; and (4) funded through a domestic trust subject to the jurisdiction of U.S. courts. The Plans did not meet these requirements and therefore were not tax-exempt under section 401(a) and were not entitled to the refunds paid by SKAT.

3. Protocol Amending Tax Convention with Denmark, U.S.-Den., art. 10, ¶ 3(c), May 2, 2006, S. Treaty Doc. No. 109-19 (amending Convention and Protocol Between the United States and Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, U.S.-Den., Aug. 19, 1999, S. Treaty Doc. No. 106-12).

4. I reserve the right to supplement my opinions in this report and to respond to any opinions offered by Defendants’ experts.

14. First, the Code’s exclusive benefit rule requires that a qualified 401(k) plan’s assets cannot “be used for or diverted to purposes other than the exclusive benefit of plan participants or their beneficiaries.”⁵ The Plans failed to meet this requirement because many were created and operated in order to participate in a scheme to submit DWT applications to SKAT, and as part of this scheme, between 66.7% and 100% of the funds the Plans received from SKAT were paid over to others in the scheme, including entities controlled by Sanjay Shah (“Shah”), who designed the refund scheme, and other defendants in this multidistrict litigation, who themselves formed or enlisted others to form the Plans.

15. Second, the IRC limits the source of funds that can be contributed to a qualified 401(k) plan to (i) plan sponsor contributions derived from the sponsor’s trade or business, or (ii) participant contributions in the form of pre-tax or after-tax compensation from the sponsor. Most of the Plans failed to meet this requirement. To the extent that the contributions were made to a Plan, the source of the contribution was typically unrelated to the sponsor’s trade or business. Indeed, for most of the Plans, the sponsor was generally a shell company that had no income-generating trade or business, as required by the Code. If and when Plans were actually funded, the source of the funds appears to have been from the personal assets of individual Defendants who established the Plans. Moreover, the “funds” that the Plans purported to use to purchase Danish shares were purportedly obtained through stock loan financing arrangements made under problematic circumstances.

16. Third, relevant Treasury regulations require that a 401(k) plan be established with the intent to be permanent rather than a temporary program. Most of the Plans failed to meet this requirement, because they were established for the primary (if not sole) purpose of making

5. Treasury Regulation §1.401-2(a)(1).

fraudulent DWT reclaims and were only intended to exist for the period when such reclaims were being made. Unlike permanent or at least long-term retirement plans, the Plans generally did not engage in any activity other than the purported Danish stock trading that was a component of Sanjay Shah's scheme to obtain DWT refunds from SKAT or similar schemes to obtain money from Denmark and Belgium.⁶ The vast majority of the Plans' primary (or sole) purpose was to be available to Sanjay Shah's Solo Capital Partners LLP ("Solo Capital" or "Solo") to participate as directed in its purported transactions. After Denmark announced it had discovered a fraud and suspended paying plan reclaim applications, many of the Plans and/or the associated LLC plan sponsors were terminated, ceased operating, or were effectively abandoned.

17. Fourth, the IRS requires that plan assets may not be comingled with the assets of other investors, unless the plan's assets are pooled in a group trust restricted to tax-advantaged retirement vehicles and qualifying as a domestic trust. The group trust must include and follow specific provisions and procedures protecting each plan's separate interest in the group trust's assets. Many of the Plans' assets were subject to potential pooling with non-U.S. pension plan assets at overseas broker-custodians but without the safeguards required by the IRS. The Plans therefore violated the IRC's provision against co-mingling of assets.

B. The Plans Failed to Comply with other U.S. Legal Obligations.

18. U.S. law imposes a wide variety of other legal obligations on qualified pension plans, including regulatory reporting and operational requirements. Failure to comply with these requirements may lead to financial or other penalties imposed on a plan. Legitimate retirement plans operate in accordance with these legal obligations in order to avoid incurring unnecessary

6. See, e.g., Markowitz Tr. at 116:2-24.

costs and raising questions about their qualified status. The Plans did not abide by one or more of the following legal obligations.

19. First, a 401(k) plan should generally custody its assets in the United States, within the jurisdiction or protection of the United States district courts. Most Plans ignored this standard by maintaining their trading accounts at Solo Capital in the United Kingdom or with one of Solo Capital's three affiliated broker-custodians, also in the United Kingdom and outside the jurisdiction and protection of United States district courts. Custody agreements between the Plans and Solo Capital or its three affiliates I have reviewed purported to allow commingling plan assets with assets of any other clients raising further concerns about the security of Plan assets.

20. Second, the Code and ERISA include provisions mirroring one another that prohibit retirement plans from engaging in specified transactions with certain disqualified persons. These restrictions include a prohibition on the furnishing of services between a plan and a service provider unless the provider's compensation is no more than reasonable.⁷ Employees of Solo and/or Ganymede Cayman Ltd. ("Ganymede"), a Shah-controlled entity,⁸ instructed the Plans on which shares to trade, in what volumes, and with whom. Thus, Solo and/or Ganymede were such service providers subject to prohibited transaction limitations, and the percentage of gross proceeds from the Danish stock transactions those entities received for their services — between approximately 66% and 85% of the DWT refunds — were, based on

7. See Code Section 4975(c)(1)(C) and (e)(2)(B) and Department of Labor ("DOL") Regulation Section 2550-408b-2(a).

8. Sanjay Shah was the shareholder of Ganymede from September 2011 until he transferred the share to Elysium Global Limited, another entity he controlled, in July 2014 (CN012_318_001-00000042; ELYSIUM-05295222). Shah also acted as a director of Ganymede (CN012_322_001-00000001 at 76).

my experience, unreasonable. As a result, the Plans' payments to Solo/Ganymede likely constituted prohibited transactions under the Code and ERISA.

21. Third, a retirement plan sponsor is required to keep books and records available for review by the IRS. Many of the Plans failed to maintain even the most basic records, including plan formation documents and account statements. These Plans likely violated the Code's records requirements.

C. The Creation and Operation of the Plans was Not in Accord with Retirement Industry Standards.

22. A 401(k) plan is supposed to provide the opportunity for a person to invest tax-deferred compensation in a diverse portfolio of assets that will gradually build over the course of a career to provide savings sufficient along with Social Security benefits and personal savings to support retirement needs. Assets of these plans must be held in trust and are subject to various safeguards to protect the retirement savings and ensure they are used for the exclusive benefit of the beneficiaries—not to benefit outside parties. The Plans, however, were generally set up to participate in Shah's ex-dividend strategy involving the Plans' putative acquisition of massive amounts of Danish stocks, using resources supposedly arranged by Shah, Solo Capital, and Ganymede through counterparties arranged by Solo Capital or related entities. The Plans did not invest any money of their own to acquire any Danish shares and generally did not make any other investments, except purportedly engaging in similar trading in Belgian securities. The tax refunds paid by SKAT constituted the entire proceeds of these transactions and were overwhelmingly applied for the benefit of Shah and the entities he controlled in the form of fees for services. In addition, in some instances, the individual plan participants, rather than the Plans themselves, received the proceeds from the refund applications, thereby defeating the purpose of investing through a pension plan to obtain tax deferred benefits at the point of retirement.

II. BEN-JACOB DEPARTED FROM PROFESSIONAL STANDARDS.

23. An attorney licensed in New York has duties to: (1) provide competent representation and (2) avoid participating in fraudulent conduct. In my opinion, Ben-Jacob violated both of these duties of professional conduct.

24. Ben-Jacob oversaw the formation of numerous limited liability companies (“LLC”s), apparently to sponsor 401(k) Plans that could participate in the Solo Capital strategy. Ben-Jacob helped his clients (first the Argre group, and later John van Merkensteijn, Richard Markowitz, and Robert Klugman) establish Plans that participated in a partnership structure calculated to minimize the benefit from DWT refunds to the Plans and to maximize the benefit to Ben-Jacob’s clients. The partnership structure enabled Ben-Jacob’s clients to conduct the Solo Capital transactions through trading accounts that were nominally owned by the Plans. The Plans acted as mere agents or nominees for the partnerships, which were overwhelmingly owned by Ben-Jacob’s clients. Ben-Jacob failed to investigate suspicious aspects of the transactions, which included the following:

- The Argre and Kaye Scholer Plans would make money for allowing the Danish stock transactions to run through their accounts but would not invest any funds to acquire these stocks. Virtually all of the purported funds to buy the shares they allegedly acquired would be arranged by Solo; and the supposed intent of the parties was that the Argre and Kaye Scholer Plans would effectively be in partnership with Solo Capital, trading in the name of the Argre and Kaye Scholer Plans, but paying the lion’s share of the proceeds to Solo. In effect, the Argre and Kaye Scholer Plans were acting as undisclosed agents or intermediaries for Solo Capital, allowing Solo to submit reclaim applications to SKAT in the name of the Argre and Kaye Scholer Plans, while keeping most of the benefits for Solo Capital itself in the guise of service fees. The fact that a plan would use little or none of its own money to buy anything—that there was very little or no actual investment—raised the obvious question of what the Argre and Kaye Scholer Plans were contributing to the scheme other than its name as a front for Solo Capital. The sheer number of Argre and Kaye Scholer Plans, and the use of multiple Plans per participant raised the obvious question whether Solo Capital and Ben-Jacob’s clients (with Ben-Jacob’s assistance) were using the Argre and Kaye Scholer

Plans to conceal the fact that Solo Capital was behind all the purported transactions and reclaims.

- No one else was offering a similar “too good to be true” strategy or charging a similar fee;
- The strategy involved massive purchases of stock with no support of any known financial institution; the financing was supposedly provided by Solo through an unknown and unproven affiliate in the Cayman Islands. Similarly, the Argre and Kaye Scholer Plans paid Solo Capital’s fee, not to Solo, but to an obscure and unregulated Solo affiliate in the Cayman Islands.
- In order to submit reclaim applications to SKAT, the Plans had to represent that they were the beneficial owners of Danish shares. Ben-Jacob had a Danish legal opinion indicating that a pension plan could not be the beneficial owner if it was under a legal obligation to pay any portion of a dividend on Danish shares to any other person. The Argre and Kaye Scholer Plans, however, had expressly agreed to pay two thirds or more of the tax reclaims to Solo Capital’s affiliate, Ganymede, in the Cayman Islands. In addition, many of the Argre and Kaye Scholer Plans agreed to pay 90% to 95% of the remaining portion to entities controlled by Markowitz, van Merkensteijn, and Klugman.
- The Argre and Kaye Scholer Plans represented in their reclaim applications that they were tax-qualified pension plans. This representation was inconsistent with the Argre and Kaye Scholer Plans’ evident departures from the basic standards for being a qualified plan.

FACTUAL BACKGROUND

I. PLAINTIFF SKAT

25. Plaintiff SKAT is the agency of the government of Denmark charged with the assessment and collection of Danish taxes, and the party to whom the Plans’ claims for DWT refunds under the Treaty were submitted.

II. BACKGROUND ON THE TREATY AND THE SCHEME.

26. Under the Danish Withholding Tax Act section 65, Danish companies are required to withhold 27% of dividends distributed as to their shares.⁹ The Treaty allows for a

9. See Amended Complaint, *Skatteforvaltningen v. Avanix Management LLC Roth 401K Plan*, No. 19-cv-01867 (LAK) (S.D.N.Y. Apr. 20, 2020), ECF No. 60 ¶ 21.

full refund of Danish DWT to U.S. pension plans which are tax-exempt under section 401(a) of the Code.

27. Between 2012 and 2015, over 270 U.S. pension plans, including the 193 Plans that are the subject of this report, submitted reclaims to SKAT in which they represented that they were qualified pension plans, had shareholdings in Danish companies, and had received dividends on those shareholdings net of the tax.¹⁰ Claims by the Plans resulted in SKAT paying DWT refund claims of over \$1 billion USD to the Plans.¹¹

28. The Plans that submitted reclaims to SKAT can largely be broken into three groups: The first group, consisting of 69 plans, is associated with Defendants Richard Markowitz, John van Merkensteijn, Robert Klugman, and/or Ben-Jacob (the “Argre and Kaye Scholer Plans”).¹² The second group, consisting of 100 Plans, is associated with Defendants Roger Lehman, Doston Bradley, Matthew Tucci and/or Gavin Crescenzo (the “Lehman Plans”).¹³ Both these groups used Solo or other brokers controlled by Shah. The third group, consisting of 20 Plans, used ED&F Man Capital Markets (“ED&F”) as its custodian (the “ED&F Plans”).¹⁴

10. See generally Amended Complaint, *Skatteforvaltningen v. Avanix Management LLC Roth 401K Plan*, No. 19-cv-01867 (LAK) (S.D.N.Y. Apr. 20, 2020), ECF No. 60 ¶¶ 1-12.

11. See Appendices F, H, J, L, and M. (listing payments made by SKAT to the Plans). Unless otherwise noted, all DKK to USD exchanges rates relied on in this report are those used in SKAT’s amended complaints, the docket numbers of which are listed in Appendices.

12. The 30 “Argre Plans” are listed in Appendix F to this report, and the 39 “Kaye Scholer Plans” are listed in Appendix H.

13. The Lehman Plans are listed in Appendix J.

14. The ED&F Plans are listed in Appendix K. Two of the Plans that used ED&F also used Solo as a custodian: the Acorn Capital Strategies LLC Employee Pension Profit Sharing Plan & Trust and the Sterling Alpha LLC 401(K) Profit Sharing Plan. See Exhibit K (ED&F Plans Summary Chart).

III. THE BELLWETHER PLANS

29. SKAT’s counsel has informed me that the parties in this multidistrict litigation intend to select bellwether cases representing various classes of Plans, seven of which will be discussed in this report. the first bellwether case will represent the trading pattern used by the Plans that were active in the DWT reclaim scheme in 2012 and/or 2013. Counsel has informed me that the 2012-13 bellwether case is currently The RJM Capital Pension Plan (the “RJM Plan”) (an “Argre Plan,” as defined below). One of the backups for this bellwether selection is the Delvian LLC Pension Plan (the “Delvian Plan”) (an Argre Plan), which I will also address as it is representative of the Argre Plans that entered into partnerships.

30. Counsel for SKAT has informed me that there will be four bellwether cases that represent trading in 2014-15, and that the parties have agreed the first of these will be The Basalt Ventures Roth 401(k) Plan (the “Basalt Plan”) (a “Kaye Scholer Plan,” as defined below) and the second will be the Roadcraft Technologies LLC Roth 401(k) Plan (the “Roadcraft Plan”) (a Kaye Scholer Plan).

31. SKAT’s counsel has informed me that the parties have not come to agreement on the third bellwether Plan representing trading in 2014-2015, with SKAT proposing The FWC Capital LLC Pension Plan (the “FWC Plan”) and the defendants proposing The Valerius LLC Solo 401(k) Plan (the “Valerius Plan”) (both of which are “Lehman Plans,” as defined below). In light of this disagreement among the parties, this report will address both of these Plans. SKAT’s counsel has informed me that the parties have agreed that the fourth 2014-2015

Two other Plans – the Acord Capital Corporation Employee Profit Sharing Plan and the Sander Gerber Pension Plan – used both Solo and ED&F as custodians. Finally, two plans – the Blue Ocean Equity LLC Retirement Plan & Trust and the Cole Enterprises USA Retirement Plan & Trust – used a Comoros based entity called Salgado Capital as their custodian.

bellwether will be The Proper Pacific LLC 401(k) Plan (the “Proper Pacific Plan”) (a Lehman Plan).

32. This report will take these seven Plans as examples, and the term the “Bellwether Plans” will refer to these seven Plans collectively.

IV. THE ARGRE AND KAYE SCHOLER GROUPS.

33. Argre Management LLC (“Argre”) was a New York based investment firm, controlled in part by Defendants Richard Markowitz (“Markowitz”) and John van Merkensteijn (“van Merkensteijn”).¹⁵ Beginning in 2012, Argre and its principals worked with Sanjay Shah and Solo Capital, to implement a scheme seeking to derive profits by using U.S. 401(k) plans to submit DWT reclaim applications to SKAT with respect to purportedly withheld dividends.¹⁶ Between 2012 and 2014, 30 Plans connected to Argre submitted refund applications to SKAT (the “Argre Plans”).¹⁷ SKAT paid withholding tax refund claims of at least DKK 1,594,985,311.31 (approximately \$241,125,129.93 USD) to the Argre Plans.¹⁸

34. In the second half of 2014, Defendants Markowitz and van Merkensteijn, along with Defendant Robert Klugman (“Klugman”), began using an additional 39 (mostly newly created) Plans to submit DWT reclaims to SKAT (the “Kaye Scholer Plans”).¹⁹ These Plans submitted their reclaims to SKAT from August 2014 through the summer of 2015.²⁰ Throughout

15. R. Markowitz Dep. Tr. at 20:10-22; MBJ_0035797 (Ex. 2272).

16. R. Markowitz Dep. Tr. at 137:19 – 139:17.

17. The 30 Argre Plans are listed in Appendix F.

18. See Appendix F (Argre Plans Summary Chart).

19. The 39 Kaye Scholer Plans are listed in Appendix H.

20. See Appendix H (Kaye Scholer Plans Summary Chart).

this period, Markowitz, van Merkensteijn, and Klugman engaged Defendant Ben-Jacob and other Kaye Scholer lawyers to assist them in implementing the scheme.²¹ SKAT paid DWT refund claims of at least DKK 1,692,569,495.74 (approximately \$257,614,000.00 USD) to the Kaye Scholer Plans.²²

A. Individual Argre and Kaye Scholer Defendants

1. Richard Markowitz

35. Defendant Markowitz had been an investment banker and partner at Goldman Sachs before joining Argre.²³ Sanjay Shah invited the Argre principals, including Markowitz, to provide Plans to participate in the Solo ex-dividend strategy.²⁴ Markowitz himself was the participant in nine Plans formed by different LLCs he had established.²⁵ Markowitz also arranged for the formation of an LLC and plan on behalf of his wife, Defendant Jocelyn Markowitz, as well three LLCs and Plans for his sister, Defendant Robin Jones, and three more LLCs and Plans for his brother-in-law, Defendant Joseph Herman.²⁶ Entities controlled in whole or part by Markowitz received a percentage of the DWT refunds paid by SKAT to another 28 Plans, the participants of which were Markowitz himself, his family or friends Markowitz enlisted to participate in the scheme.²⁷

21. Klugman Dep. Tr. at 62:23 – 63:18.

22. See Appendix H (Kaye Scholer Plans Summary Chart).

23. WH_MDL_00227810 (Ex. 2107).

24. R. Markowitz Dep. Tr. at 137:19 – 139:17.

25. See Appendix G (Argre Plans Summary Chart) & Appendix H (Kaye Scholer Plan Summary Chart). Markowitz was the only participant in six of these plans; he was one of four participants in the other three.

26. J. Markowitz Dep. Tr. at 19:21-23, 46:20-23, 48:8-15; R. Markowitz Dep. Tr. at 368:14 – 369:16.

27. See Appendix G (Argre Plans Partnerships Summary Charts); Appendix J (Kaye Scholer Plans Partnership Summary Chart).

2. John H. van Merkensteijn III

36. Defendant van Merkensteijn is an attorney who has worked as an investor for multiple decades.²⁸ Van Merkensteijn was another Argre principal solicited by Shah to provide 401(k) plans to participate in the scheme.²⁹ Van Merkensteijn himself was the sole participant in nine Plans.³⁰ He also arranged for an LLC and Plan to be established for his wife, Defendant Elizabeth van Merkensteijn, and, in 2014, facilitated the formation of five LLCs and Plans for each of four of his friends: Defendants Ronald Altbach, Perry Lerner, Edwin Miller, and David Zelman.³¹ As with Markowitz, entities controlled in whole or part by van Merkensteijn received a percentage of the DWT refunds paid by SKAT to another 28 Plans, the participants of which were van Merkensteijn himself, his family and friends van Merkensteijn recruited to participate in the scheme.³²

3. Robert Klugman

37. Defendant Klugman has worked in the financial industry from the mid-1980s.³³ In 2009 or 2010, Klugman introduced the Argre principals to Sanjay Shah and Solo Capital's predecessor.³⁴ In 2014 and 2015, Klugman worked with Markowitz, van Merkensteijn, and Ben-

28. MBJ_0035797 (Ex. 2272); van Merkensteijn Dep. Tr. at 16:1-21.

29. Van Merkensteijn Dep. Tr. 23:5-12.

30. See Appendix G (Argre Plans Summary Chart) and Appendix H (Kaye Scholer Plan Summary Chart). As with Markowitz, van Merkensteijn was the only participant in six of these plans; he was one of four participants in the other three.

31. KLUGMAN00007264; van Merkensteijn Dep. Tr. at 175:10 – 178:7.

32. See Appendix H (Argre Plans Partnerships Summary Charts; Appendix J (Kaye Scholer Plans Partnership Summary Chart).

33. KLUGMAN00008986.

34. Markowitz Dep. Tr. at 28:8-21.

Jacob to form and/or use five Plans to submit DWT refund applications to SKAT.³⁵ Klugman explained that his reason for establishing multiple plans was a per Plan allocation or size limit for the transactions Shah made available to him.³⁶ Although he claimed to have contributed no more than one or two thousand dollars to each of his Plans, in order to set up their bank accounts, he estimated that they made a profit of \$19–\$20 million from the scheme.³⁷ In addition, Klugman’s RAK Investment Trust received a percentage of the DWT refunds paid by SKAT to 26 Kaye Scholer Plans as compensation for his purported services.³⁸

4. Michael Ben-Jacob

38. Ben-Jacob, a Kaye Scholer partner, provided legal counsel to Argre, its principals, and Klugman from before 2012 through at least 2015. Beginning in the spring of 2014, at Ben-Jacob’s direction, Kaye Scholer attorneys and employees began to assist Markowitz, van Merkensteijn, Klugman, and their friends and family, in implementing numerous aspects of the scheme.³⁹ As the self-described relationship manager for the ex-dividend engagement, Ben-Jacob coordinated the legal analysis and opinions of Kaye Scholer’s subject matter experts on various aspects of the proposed Danish scheme.⁴⁰ These subject matter experts raised a number of serious legal issues that were never resolved and for which Ben-Jacob has never offered an explanation. In addition to his role of relationship manager, Ben-Jacob counseled his clients on

35. Klugman Dep. Tr. 15:5 – 20:10.

36. Klugman Dep. Tr. at 23:6-11. *See also* van Merkensteijn Dep. Tr. 399:1-13.

37. Klugman Dep. Tr. at 184:3-7.

38. *See* Appendix H (Kaye Scholer Plans Partnership Summary Chart).

39. MBJ_0052776 at -777.

40. Ben-Jacob Dep. Tr. 98:19 – 98:11.

the design of certain partnerships in which Plans would be minority partners and serve as agents and nominees of undisclosed non-Plan majority partners (*e.g.*, Markowitz and van Merkensteijn) participating indirectly in the reclaim scheme.⁴¹ Ben-Jacob also took active steps to implement the scheme, *e.g.*, by signing Power of Attorney and other documents declaring the Plans' beneficial ownership of Danish stocks and authorizing payment agents for the Plans to submit refund applications to SKAT.⁴²

B. The Thirty Argre Plans

39. Of the 30 Argre Plans, 27 were single participant plans, and three had four participants (each of the four being an Argre Principal).⁴³ The participants in these 30 Plans included the four Argre Principals, their family members, and/or their friends.⁴⁴ Each of the Argre Plans was created within 12 months of the date it purported to begin purchasing hundreds of millions of dollars of Danish stocks.⁴⁵ Many of the LLCs that sponsored the Plans were formed only a few months before the LLC established the Plan.⁴⁶ Under the Argre Plans' agreements with Ganymede, each Plan paid approximately 66% of the DWT refunds it received to Ganymede.⁴⁷

41. Ben-Jacob Dep. Tr. at 126:2-12

42. *See, e.g.*, MBJ_0046252; MBJ_0046256; SKAT_MDL_001_00053805 at -813; SKAT_MDL_001_00050317 at -322.

43. *See* Appendix F (Argre Plans Summary Chart); Appendix G (Argre Plans Partnership Summary Chart).

44. *See* Appendix F (Argre Plans Summary Chart); Appendix G (Argre Plans Partnership Summary Chart).

45. *See* Appendix F (Argre Plans Summary Chart); Appendix G (Argre Plans Partnership Summary Chart).

46. *See* Appendix F (Argre Plans Summary Chart); Appendix G (Argre Plans Partnership Summary Chart).

47. *See, e.g.*, Markowitz Dep. Tr. at 290:19-22, 540:14-17, 541:10-17.

40. Of the 27 single participant Plans, 15 entered into partnership agreements with entities controlled by the four Principals of Argre.⁴⁸ Under these partnership agreements, 90% or 95% of the DWT refund proceeds left after paying Ganymede, brokers, and other service providers, was transferred to the majority partners consisting of the four Argre Principals who then proceeded to divide this sum evenly among themselves.⁴⁹ After payments to Shah, the Argre Principals, and others, these 15 Plans were often left with less than 2% of the DWT refund paid by SKAT. Although they were minority partners, these Plans presented themselves to SKAT as the owners of Danish stocks with respect to which they made DWT reclaims but did not disclose to SKAT their position as nominees and agents of the partnerships or their minority position in the partnerships.⁵⁰

1. *The RJM Capital Pension Plan*

41. The RJM Capital Pension Plan (the “RJM Plan”) was a prototype 401(k) plan in which Defendant Richard Markowitz was the sole participant.⁵¹ The RJM Plan was sponsored by RJM Capital LLC, which had been formed in 2007, and in which Markowitz was the sole member.⁵² For the first six years of its existence, RJM Capital LLC did not sponsor a pension plan; then, in February 2013, it established the RJM Plan,⁵³ and just one month later, on March 7,

48. See Appendix G (Argre Plans Partnership Summary Chart).

49. See, e.g. MPSKAT00023949 & MPSKAT00056658 (partnership agreements for the Delvian Plan); Appendix G (Argre Plans Partnership Summary Chart).

50. JHVM_0010589 (Ex. 2245) at -10610; see also, e.g., SKAT_MDL_001_00079683 at 9757-9762 (Delvian LLC Pension Plan May 8, 2013 DWT refund application to SKAT).

51. WH_MDL_00331778; ELYSIUM-05822425; WH_MDL_00356182 at -193; Markowitz Dep. Tr. at 221:7-20.

52. WH_MDL_00331778; WH_MDL_00358608; Markowitz Dep. Tr. at 221:7-20.

53. WH_MDL_00331778.

2013, the RJM Plan purported to purchase over 149,000,000 DKK (approximately \$26,149,297 USD as of March 7, 2013)⁵⁴ of TDC A/S stock.⁵⁵

42. The RJM Plan was funded with \$100 deposited at a First Republic Bank branch in February 2013.⁵⁶ There is no indication in the record that these funds came from business activity by the RJM Plan's sponsor, RJM Capital LLC.⁵⁷ Solo Capital's records show that prior to its first purported purchase of Danish securities, the RJM Plan did not deposit any funds into its trading account at Solo Capital.⁵⁸ In total, SKAT paid the RJM Plan 59,487,345.00 DKK (approximately \$9,001,000.00 USD) attributable to DWT refunds.⁵⁹ The RJM Plan paid over 66% of the DWT refunds to Ganymede.⁶⁰

43. The RJM Plan's IRS Forms 5500-EZs and its response to a 2018 IRS audit letter show that \$8,795 was contributed to the Plan in 2013, but that nothing was contributed in 2014, 2015, and 2016.⁶¹

54. This is based on an exchange rate of 1 Danish Kroner to \$0.15 USD.

55. MPSKAT00078902.

56. Republic Checking Account Statements for RJM Plan, February – December, 2013. MPSKAT00003967; *see also* MPSKAT00003969; MPSKAT00003971; MPSKAT00003975; MPSKAT00003979; MPSKAT00003983; MPSKAT00003985; MPSKAT00003987; MPSKAT00003989; MPSKAT00003991; MPSKAT00003995.

57. *Id.* at MPSKAT00003967.

58. MPSKAT00078902.

59. *See* Appendix F (Argre Plans Summary Chart).

60. Markowitz Dep. Tr. at 540:14-17, 541:10-17

61. WH_MDL_00358600; WH_MDL_00356182 at -6195.

2. The Delvian LLC Pension Plan

44. The Delvian Plan was a prototype 401(k) plan in which non-party Alicia Colodner (“Colodner”), an Argre employee, was the sole participant.⁶² The Delvian Plan was sponsored by Delvian LLC, which was formed in January 2011⁶³ by Colodner, who was its sole member.⁶⁴ The Delvian Plan was formed in May 2012,⁶⁵ and on August 8, 2012, less than three months later, it purported to purchase over 273,000,000 DKK (approximately \$45,322,487 USD as of August 8, 2012) of TDC A/S stock.⁶⁶

45. The Delvian Plan was initially funded with \$100 in October 2012, which was deposited in its U.S. bank account in October 2012, five months after the Plan’s formation, but only after it purportedly purchased the TDC A/S stock described above.⁶⁷ This \$100 appears to be the only contribution made to the Delvian Plan’s checking account in 2012.⁶⁸ According to the IRS Forms 5500 produced in this action, the Delvian Plan’s participant, Colodner, contributed \$2,007 to the Plan in 2013, but nothing in 2014.⁶⁹ Solo Capital’s records show that the Delvian Plan did not deposit any funds into its trading account at Solo Capital before purporting to

62. WH_MDL_00051374; GUNDERSON 00010029 at -10034.

63. MPSKAT00274815.

64. GUNDERSON 00010029 at -10034.

65. WH_MDL_00051374.

66. MPSKAT00082600.

67. MPSKAT00024171.

68. MPSKAT00024171; MPSKAT00024173; MPSKAT00024174.

69. MPSKAT00024667; WH_MDL_00051374.

purchase tens of millions of dollars of Danish securities.⁷⁰ In total, SKAT paid the Delvian Plan 67,197,056.32 DKK (approximately \$ 9,883,954.97 USD) in DWT refunds.⁷¹

46. In April 2012, the Delvian Plan entered into a partnership with Quartet Investment Partners LLC (“Quartet”), which was owned and controlled by the four members of Argre.⁷² When the Delvian Plan received a refund from SKAT, it first paid 66% to Ganymede, and also fees to the payment agents and other service providers.⁷³ After these payments, Quartet received 95% and the Plan 5% of the remaining DWT refunds pursuant to the partnership agreement.⁷⁴ Thus, at most, the Delvian Plan could receive no more than 1.7% of the DWT refunds received from SKAT (66% x 5% = 1.7%). Despite this fact, the Delvian Plan represented to SKAT that it was the beneficial owner of all the dividends it purported to own.⁷⁵

47. In February, 2013, the Delvian Plan entered a new partnership, this time with four pension plan trusts, each pension plan being controlled by one of the four Argre principals.⁷⁶ These four pension plan trusts were: the AOI Pension Plan Trust (controlled by Matthew Stein); the Ganesha Industries Pension Plan Trust (controlled by Jerome Lhote); the Bernina Pension Plan Trust (controlled by van Merkensteijn); and the RJM Capital Pension Plan Trust (controlled

70. MPSKAT00082600.

71. SKAT_MDL_001_00079683; Appendix F (Argre Plans Summary Chart).

72. MPSKAT00023949; MPSKAT00057018 at 7022; Markowitz. Tr. at 240:5-19. *see also generally* GUNDERSON 00010029 at -10034-38. Quartet was formed in April 2012. MPSKAT00057016.

73. Markowitz Dep. Tr. at 290:19-22, 540:14-17, 541:10-17.

74. MPSKAT00023949

75. *See, e.g.*, SKAT_MDL_001_00079683 at 9757-9762; JHVM_0010589 (Ex. 2245) at -610-611.

76. MPSKAT00056658; *see also generally* GUNDERSON 00010029 at -10034-38; MPSKAT00025932; JHVM_0017739; MPSKAT00020864

by Markowitz).⁷⁷ As with the partnership with Quartet, the Delvian Plan retained only 5% of the DWT refunds after payments to Ganymede and other service providers.⁷⁸

48. The Delvian Plan ceased trading with Solo Capital in 2014.⁷⁹ In 2014 and 2015, Colodner formed two more LLCs and pension plans (which are not defendants in this MDL) that submitted reclaims to SKAT in 2014 and/or 2015.⁸⁰

49. As discussed in Section IV.B, *supra*, the other Argre Plans followed patterns similar to the RJM Plan and Delvian Plan in terms of their formation, funding, operation, scope of alleged investment activity, duration, and payments to Ganymede, except that, unlike the RJM Plan, the majority of the LLCs sponsoring the Argre Plans were formed within months of when the Plans began their purported purchases of Danish securities.⁸¹ The partnerships joined by other Argre Plans were structured in virtually the same way as one of the two partnerships in which the Delvian Plan participated, except that a few Plans received 10% of the remaining DWT refunds instead of 5%.⁸²

C. The 39 Kaye Scholer Plans

50. In August 2014, Markowitz, Klugman, and van Merkensteijn began to use the Kaye Scholer Plans to submit DWT refund claims to SKAT.⁸³ Nearly all these plans were

77. See Appendix G (Argre Plans Partnership Summary Chart). The trusts associated with these four Plans would be considered the same entity as the Plans themselves.

78. MPSKAT00056658.

79. SKAT_MDL_001_00079683.

80. MPSKAT00251781; MPSKAT00256699; MPSKAT00256678; MPSKAT00148667; MPSKAT00269096; MPSKAT00269098; MPSKAT00045527; WH_MDL_00213231.

81. See Appendix F (Argre Plans Summary Chart).

82. See Appendix G (Argre Plans Partnership Summary Chart).

83. See Appendix H (Kaye Scholer Plans Summary Chart).

created in July 2014 or later.⁸⁴ Many of the LLCs that sponsored these plans were created a month or so before the Plans were formed.⁸⁵ The vast majority of the sponsoring LLCs and Plans appear to have been created solely in order to submit DWT refund applications to SKAT.⁸⁶ Many of the Kaye Scholer Plans were formed a few weeks before they purported to purchase tens of millions of dollars of Danish securities.⁸⁷ All of the Kaye Scholer Plans paid 75% of the DWT refunds received from SKAT to Ganymede.⁸⁸ All of the participants in the Kaye Scholer Plans were participants in at least three of the Plans.⁸⁹ Klugman explained that his reason for establishing multiple Plans was to take up the allocation that Shah offered him.⁹⁰

51. Markowitz and van Merkensteijn instructed Kaye Scholer personnel supervised by Ben-Jacob to create dissimilar names to be assigned to the newly formed LLCs and Plans.⁹¹ The names chosen were unrelated to any actual business activity or enterprise of the LLCs.⁹² Van Merkensteijn instructed Kaye Scholer to “only name one [Plan] from rocks one from fish. Etc.”, because “[w]e want to make them sound dissimilar.”⁹³ In 2015, van Merkensteijn worked

84. See Appendix H (Kaye Scholer Plans Summary Chart).

85. See Appendix H (Kaye Scholer Plans Summary Chart).

86. Van Merkensteijn Dep. Tr. at 174:6-10.

87. See Appendix H (Kaye Scholer Plans Summary Chart).

88. Klugman Dep. Tr. at 65:16-21.

89. See Appendix H (Kaye Scholer Plans Summary Chart).

90. Klugman Dep. Tr. at 23:6-13. Shah reputedly explained that Klugman could expect to make about \$1 million per Plan for his allocation of Plans, if all the trading worked. *Id.* at 24:12-25:25.

91. KLUGMAN00007264 (Ex. 2188); WH_MDL_00297405 (Ex. 2265); Markowitz Dep. Tr. at 352:8 – 361:1; van Merkensteijn Dep. Tr. at 167:22 – 174:16.

92. Van Merkensteijn Dep. Tr. at 173:21 – 174:5.

93. WH_MDL_00297405 (Ex. 2265).

with Ben-Jacob and others to eliminate all references to DWT “reclaims” in the Plans’ accounts, ledgers and books and to recharacterize them with generic terms, such as “investment income” or “trading income.”⁹⁴

52. Of the 39 Kaye Scholer Plans that submitted DWT refund claims to SKAT, 26 of them entered into partnership arrangements with entities controlled by Markowitz, van Merkensteijn, and/or Klugman.⁹⁵ Under these agreements, the Plans would receive 5% of the funds remaining after payments to Ganymede, the brokers, and others in the scheme.⁹⁶ Entities controlled by Markowitz, van Merkensteijn, and/Klugman received 95% of the amount remaining after the payments to Ganymede, brokers and other service providers.⁹⁷

1. *The Basalt Ventures Roth 401(k) Plan*

53. The Basalt Plan was a prototype 401(k) plan in which Defendant John van Merkensteijn was the sole participant.⁹⁸ The Plan was among 28 plans and associated LLCs formed by Ben-Jacob on behalf of Markowitz, van Merkensteijn, Klugman, and their friends and family in July 2014.⁹⁹ On August 7, 2014, the Basalt Plan purported to purchase over 147,000,000 DKK (approximately \$24,662,361 USD as of August 7, 2014) of TDC A/S stock.¹⁰⁰ The Basalt Plan was sponsored by Basalt Ventures LLC, which had been formed in

94. GUNDERSON_00009847.

95. See Appendix I (Kaye Scholer Plans Partnership Chart).

96. See Appendix I (Kaye Scholer Plans Partnership Chart).

97. See Appendix I (Kaye Scholer Plans Partnership Chart).

98. WH_MDL_00339896.

99. WH_MDL_00339896; see also Appendix H (Kaye Scholer Plans Summary Chart).

100. WH_MDL_00035630.

June 2014.¹⁰¹ Van Merkensteijn claims that the LLC generated approximately \$20,000 USD in revenue in 2014 and \$27,500 USD in 2015.¹⁰² During those years, the Basalt Plan purported to purchase hundreds of millions of dollars of Danish equities.¹⁰³

54. The Basalt Plan was initially funded with a \$1,000 deposit in July 2014, but there is no indication in the record that these funds were attributable to assets of the Basalt Plan's sponsor, Basalt Ventures LLC.¹⁰⁴ Old Park Lane Capital PLC's ("Old Park Lane") (another broker-custodian controlled by Sanjay Shah) records show that approximately \$40,000 was deposited in the Plan's Old Park Lane account,¹⁰⁵ which funds were used to pay purported trading fees but not to purchase securities. These funds appear to have come from the Omineca Pension Plan, another of Mr. van Merkensteijn's Plans.¹⁰⁶ In total, SKAT paid DWT refunds to the Basalt Plan in the amount of 27,853,521.00DKK (approximately \$4,214,000.00 USD).¹⁰⁷ The Basalt Plan paid 75% of these refunds to Ganymede.¹⁰⁸

55. Van Merkensteijn testified that he formed the Basalt Plan, its sponsoring LLC, and some other of his Plans and sponsoring LLCs to participate in the scheme, but with no

101.JHVM_0001927.

102.WH_MDL_00035630; WH_MDL_00037273; GUNDERSON_00009434.

103.Van Merkensteijn Plan Defendants' Responses and Objections to Plaintiff Skatteforvaltningen's First Set of Interrogatories, Response to Interrogatory No. 8.

104.JHVM_0001821 at -1855.

105.GUNDERSON 00009337.

106.JHVM_0002167; van Merkensteijn Dep. Tr. at 227:25 – 279:9.

107.*See* Appendix H (Kaye Scholer Plans Summary Chart).

108.Klugman Dep. Tr. at 65:16-21.

specific business purpose for the LLCs.¹⁰⁹ The Basalt Ventures LLC – like other van Merkensteijn LLCs – did not receive income directly, but when van Merkensteijn received consulting income in his personal capacity, he would allocate it among some of his LLCs, including the Basalt Ventures LLC.¹¹⁰

2. The Roadcraft Technologies LLC Roth 401(k) Plan

56. The Roadcraft Plan was a prototype 401(k) plan in which Defendant Ronald Altbach (“Altbach”), a friend of van Merkensteijn, was the sole participant.¹¹¹ The Plan was formed in July 2014.¹¹² On August 7, 2014, less than a month later, the Roadcraft Plan purported to purchase over 143,000,000 DKK (approximately \$23,991,276 USD as of August 7, 2014) of TDC A/S stock.¹¹³

57. The Roadcraft Plan was sponsored by Roadcraft Technologies LLC, which was formed in June 2014.¹¹⁴ Altbach was the sole member of the LLC, and the LLC purportedly generated approximately \$7,000 USD in revenue in 2014 and in 2015.¹¹⁵ During those same years, the Roadcraft Plan purported to purchase hundreds of millions of dollars of Danish equities.¹¹⁶

109.van Merkensteijn Dep. Tr. at 90:6 – 94:2 (discussing Ex. 2273), 188:23 – 190:24.

110.van Merkensteijn Dep. Tr. at 90:6 – 94:2 (discussing Ex. 2273), 188:23 – 190:24.

111.WH_MDL_00024858.

112.WH_MDL_00024858.

113.WH_MDL_00020362.

114.WH_MDL_00029159.

115.MBJ_STOR-0002719 at 2725-26.

116.WH_MDL_00020362; WH_MDL_00020558; MPSKAT00008759.

58. The Roadcraft Plan was funded with a \$100 deposit in late August 2014, and there is no indication in the record that these funds were attributable to assets generated by business activity of the Roadcraft Plan’s sponsor, Roadcraft Technologies LLC.¹¹⁷ Old Park Lane’s records show that approximately \$40,000 was deposited in the Plan’s Old Park Lane account, but not by the Roadcraft Plan itself, and that the deposit was used to pay purported trading fees but not to purchase securities.¹¹⁸ This deposit was apparently a loan from Markowitz or van Merkensteijn who agreed to loan each of these new Plans this amount, and who were repaid the \$40,000 from each Plan after the Plan received payments from SKAT. Altbach contributed another \$175 to the Plan in 2015.¹¹⁹ In total, SKAT paid the Roadcraft Plan over 67,971,029.00 DKK (approximately \$ 10,285,000.00 USD) in DWT refunds.¹²⁰

59. At his deposition, Altbach testified that he was unsure if the Roadcraft Plan—or his other four Plans—were still in existence.¹²¹ The LLCs that sponsored Altbach’s five Plans have not conducted any business activity since 2015.¹²²

60. The Roadcraft Plan entered into a partnership with Routt Capital Trust (the “Routt Trust”), an entity controlled by Richard Markowitz, and the RAK Investment Trust (the “RAK Trust”), an entity controlled by Robert Klugman.¹²³ Under this agreement, the Routt Trust received 70%, the RAK Trust received 25%, and the Roadcraft Plan received 5% of the DWT

117.RC00000059.

118.MPSKAT00007347; Markowitz Dep. Tr. at 401:12-20.

119.MBJ_STOR-0002719 at 2725-26.

120.*See* Appendix H (Kaye Scholer Plans Summary Chart).

121.Altbach Dep. Tr. at 203:15-18.

122.*Id.* at 232:10-17.

123.WH_MDL_00029401.

refund proceeds remaining after fees were paid to Ganymede, the brokers, and others in the scheme.¹²⁴ Thus, the most the Roadcraft Plan could retain was less than 2% of the DWT refunds paid by SKAT. Despite this fact, the Roadcraft Plan represented to SKAT that it was the beneficial owner of the dividends it purported to own so as to qualify for the DWT refunds.¹²⁵ The partnership was terminated in December 2016.¹²⁶

61. As discussed in Section IV.C, *supra*, many of the other Kaye Scholer Plans followed patterns similar to those of the Roadcraft Plan and Basalt Plans in terms of their formation, funding, operation, scope of activity, duration, and payments to Ganymede.¹²⁷ The cumulative 75% and 95% payments to Ganymede and the Plans' partners, meant that the maximum portion of DWT refunds any Kaye Scholer Plan in a partnership could retain was 1.25%.¹²⁸

V. LEHMAN GROUP

62. In the summer of 2013, Sanjay Shah and his agent Roger Lehman ("Lehman") began seeking individuals in addition to those in the Argre group to create LLCs and pension plans to submit DWT refund applications to SKAT.¹²⁹ At that time, Shah and Lehman enlisted individuals who worked at a brokerage desk at New York brokerage firm Tradition Securities,

124.WH_MDL_00029401.

125.*See* Roadcraft Claim Submissions to SKAT by Goal TaxBack Ltd. (April 28, 2015, Nov. 27, 2014 and May 15, 2015) (SKAT_MDL_001_00056852).

126.KLUGMAN00048773.

127.*See* Appendix H (Kaye Scholer Plans Summary Chart); Appendix I (Kaye Scholer Plans Partnership Summary Chart).

128.*See* Appendix I (Kaye Scholer Partnership Summary Chart).

129.Lehman Dep. Tr. at 314:2 – 315:7.

the ED&F Plans were transferred to third-party service providers, including, but not limited to, the Plans' investment advisors and ED&F.²¹⁷

**THE PLANS WERE NOT ESTABLISHED OR
ADMINISTERED AS QUALIFIED PLANS**

88. In the refund claims submitted to SKAT, the Plans relied on Article 10(3)(c) of the Treaty to claim complete exemption from paying any Danish tax on the dividends arising from the Danish shares they purportedly owned which, if applicable, would have entitled them to a refund of 27% of dividends withheld and paid over to SKAT. In order to qualify for this exemption, the Treaty required, among other things, that Plans meet the criteria of a "pension fund" described in Article 22(2)(e) of the Tax Treaty. The United States Treasury Department's technical explanation of the Treaty clarifies the purpose of Section 22(e) and states that U.S. retirement plans must be "tax-exempt" in order to be entitled to Tax Treaty benefits pursuant to this provision.²¹⁸ Accordingly, in order to have qualified for the exemption under the Treaty and a full tax refund, the Plans needed to satisfy the requirements for tax-exempt status which, as set forth in section 401(a) of the Code, concentrate on preserving plan assets for retirement purposes and safeguarding the interests of plan participants. For the reasons detailed below, the Plans did not satisfy these fiduciary standards generally accepted in the retirement industry and therefore were not entitled to a refund under the Treaty.

²¹⁷ See, e.g., Kaminer Dep. Tr. at 327:22-329:13

²¹⁸ See Dep't of Treasury Technical Explanation of the Convention between the Gov't of the U.S. and the Gov't of the Kingdom of Den. for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income Signed at D.C. on Aug. 19, 1999, art. 22, subpara. 2(e). Subparagraph 2(e) provides that a legal person, whether or not exempt from tax, organized under the laws of a Contracting State to provide a pension or other similar benefits to employees, including self-employed individuals, pursuant to a plan, will be entitled to all the benefits of the Convention, provided that more than 50 percent of the person's beneficiaries, members or participants are individuals resident in either Contracting State. In the United States, these are the tax-exempt organizations described in subparagraph 1(b)(ii) of Article 4 (Residence). However, Denmark now taxes some pension funds, so the U.S. Model language was modified.

I. OVERVIEW OF 401(K) PLANS

89. Over the last 40 years, tax-qualified 401(k) plans, such as the Plans utilized in the challenged Danish withheld DWT reclaims, have become the primary vehicle for accumulating retirement benefits for United States workers. Under these plans, an individual account is established for each participant, and benefits payable at retirement are based on the amounts contributed to the account as well as investment income, expenses or other gains and losses allocated to the account. The objective is to gradually grow the account by adding contributions and investment earnings over the course of the participant's working life. Seeking outsized investment returns is discouraged, because of the high level of risk entailed by the investments typically needed to achieve such returns.

90. All 401(k) plans are subject to numerous rules set forth in the Code and/or ERISA. Unlike nonqualified plans, a tax-qualified plan must meet certain requirements contained in the Code in order to receive tax-favored treatment, such as exemption of its earnings from Federal income tax until they are distributed as benefits.²¹⁹

91. Virtually all the retirement plans used to make dividend refund claims from SKAT were so-called "solo" 401(k) plans.²²⁰ These are plans established for the benefit of a self-employed individual (or an individual who is the single member of an LLC) who is the plan's sole participant. While these solo plans are not expressly subject to ERISA's requirements, it is not uncommon for solo 401(k) plan documents to incorporate ERISA's now ubiquitous fiduciary provisions by reference, including ERISA's requirement that plan fiduciaries, including plan

219. *See* Code Section 402). In addition, Code Section 404 provides a tax deduction to a plan's sponsoring employer for employer contributions to the plan's trust.

220. These are also referred to as Keogh or HR 10 plans.

sponsors, perform their duties solely in the interests of the plan and its participants²²¹ and act prudently when making plan investment decisions. For document providers as well as investment and service providers dealing with non-ERISA plans, this facilitates a single standard for providing investment advice and administrative services.

II. CODE REQUIREMENTS FOR 401(K) PLANS TO QUALIFY FOR TAX EXEMPTION

92. In order to qualify as tax-exempt under the Code, a pension plan (including a solo 401(k) plan) must meet a number of requirements, including that they be: (1) created and administered for the exclusive benefit of the plan participant(s); (2) funded in accordance with the Code; (3) permanent as opposed to temporary programs; and (4) funded by a “domestic” trust.

A. Exclusive Benefit Rule

93. The most fundamental requirement for a tax-qualified plan is the Exclusive Benefit Rule, as reflected in the Code and ERISA, which elevates loyalty to the interests of the plan and its participants to the highest plane. To meet this standard, it must be impossible under the plan/trust instrument for any part of the trust’s corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of the employees or their beneficiaries.

94. The Code’s qualified plan rules (which applied to all the Plans that made DWT refund claims) require that it must be impossible, prior to the satisfaction of all liabilities to employees, “for any part of the corpus or income [of the trust that funds the plan] to be used for or diverted to purposes other than for the exclusive benefit of employees or their

221. ERISA’s Exclusive Benefit Rule derives from this duty of loyalty. *See* ERISA Section 404(a)(1)(A).

beneficiaries.”²²² This provision requires plan investments to be in the best interest of growing the plan’s assets and meeting the retirement benefit needs of participants. Plan investments may not provide current financial advantages to plan beneficiaries (other than increasing plan assets) or to persons who are not plan participants.²²³

95. Qualified plan sponsors are permitted to outsource many plan functions through delegation. For example, a qualified plan sponsor is allowed to engage an expert to manage a plan’s assets or administration. However, no matter how broad the authority granted to service or investment providers by the plan sponsor (whether by means of powers of attorney, contracts, formal or informal delegations of authority or otherwise), a plan sponsor is never relieved of the fiduciary responsibility, under the Code and ERISA, to monitor the plan’s providers and determine whether their services are being conducted in the best interests of the plan.

96. Plan sponsors and investment managers, guided by their advisers, must act prudently for the exclusive purpose of providing benefits and defraying reasonable plan expenses. Under the Code and ERISA, a key fiduciary issue is whether investment and service provider fees are unreasonable and/or excessive relative to the services rendered. If fees are unwarranted, they will violate the exclusive benefit rule by diverting plan assets to parties other than plan participants and their beneficiaries.

B. 401(k) Funding

97. The Code limits the sources of funds that can be contributed to a plan for that plan to remain tax-exempt. Salary reduction contributions to 401(k) plans can be made by participants

222.Treasury Regulation §1.401-2(a)(1).

223.Code Section 401(a)(2). Section 1.401-2(a)(3) of the regulations explains that, as used in Code Section 401(a)(2), the phrase “purposes other than for the exclusive benefit of his employees or their beneficiaries includes all objects or aims not solely designed for the proper satisfaction of all liabilities to employees or their beneficiaries covered by the plan.”

on a pre-tax basis, and participants may also make after-tax contributions. In my experience, enabling such contributions is the typical motivation for establishing a 401(k) plan. Plan sponsor employers can also make contributions to a 401(k) plan on behalf of participants. Further, self-employed individuals can make contributions to their plans from net earnings from self-employment. Funding a plan with other sources may lead to the Plan losing its tax-exempt status.²²⁴

98. The Code imposes limits on the “annual additions” which may be made to a plan on behalf of an employee.²²⁵ Annual additions consist of employer contributions, employee contributions (whether pre-tax or after-tax), and forfeiture allocations made to an employee’s account. For 2012 through 2015, annual additions were limited to the lesser of 100% of a plan participant’s compensation or the following dollar amounts:

2012	2013	2014	2015
\$50,000	\$51,000	\$52,000	\$53,000

99. For employees age 50 and older, these amounts could have been increased by \$5,500 in 2012 – 2014 and by \$6,000 in 2015. While there is no formal limit on an employer’s establishment of more than one qualified plan, contributions to multiple plans are aggregated for purposes of determining the Code’s limits on annual contributions. Similarly, Code ceilings on benefits payable to an employee are applied by aggregating all of an employer’s qualified plans

224. In many instances, Plan contributions made by the Plan Defendants were minimal and consisted of a few hundred dollars made on a one-time basis. Accordingly, Plan assets were generally limited to such contributions which, in my experience, was an extremely unusual circumstance. Generally speaking, only plan participants or the plan sponsor may contribute to a tax-qualified plan, and the IRS will view such advances as a loan or other extension of credit. However, in the circumstances of the Plans, it is unclear whether a regulator, such as the IRS, would view such amounts as plan assets, a loan or an illegal contribution given that only plan participants or the plan sponsor may contribute to a tax-qualified plan.

225. Code §415(c).

in which the employee participates. Accordingly, contributions exceeding these limits cannot be achieved by establishing multiple plans. In addition, the establishment of multiple plans is generally constrained by administrative and recordkeeping costs.

C. Plan Permanence

100. A condition that all retirement plans seeking tax qualification, including 401(k) plans, must satisfy is that the plan will be a permanent rather than temporary program.²²⁶ While an employer may reserve the right to terminate its qualified retirement plan, abandonment of the plan within a few years after it has taken effect for any reason other than business necessity will be evidence that the plan, from its inception, was not a bona fide program for the exclusive benefit of employees. In such an instance, the IRS would likely treat the plan as having never been tax-qualified and revoke its tax-favored status. A plan established to pursue a single investment strategy and thereafter effectively abandoned as a result of the employer's failure to make further plan contributions would generally be treated as violating the permanence requirement.²²⁷

101. Treasury regulations further state that in the event a plan is abandoned, the employer should promptly notify the IRS and disclose the circumstances leading to the discontinuance of the plan. In order to meet this requirement, a plan sponsor's decision and reasons for terminating or abandoning a qualified plan should be documented and retained.

226.26 CFR 1.401-1(b)(2). Although the IRS does not require a plan sponsor to maintain its qualified plan for a specific number of years, relevant Treasury regulations provide that "[T]he term 'plan' implies a permanent, as distinguished from a temporary, program."

227. In addition, since plan contributions must be made for the purpose of distributing the corpus and income of a plan to employees or their beneficiaries, a plan will fail to be tax-qualified if its primary purpose is diverted to an investment opportunity.

102. In my experience, the IRS will judge a plan as permanent based on the facts and circumstances of the applicable case, including the likelihood of the employer's ability to continue making contributions. To support plan permanence, there must generally be recurring and substantial contributions by the employer. If the plan sponsor is floundering, it may be required to look ahead to see if the company is likely to go out of business..²²⁸ Unless there have been unforeseen business developments not within the employer's control that would preclude continuance of a plan, abandonment of the plan reverses an initial presumption of permanence and leads to a presumption of impermanence so that the plan may be disqualified retroactively.²²⁹

D. Segregation of Plan Assets

103. Qualified plan trusts generally may not commingle plan assets with the assets of other investors, since this would violate the Exclusive Benefit Rule under the Code as well as ERISA. The IRS has relaxed the general rule by permitting plans to pool their assets with the assets of other tax-advantaged plans but only if certain safeguards protecting the separate interests of the plans are met.²³⁰ These conditions include:

- The pooling of assets is made through a group trust created or organized in the United States and maintained at all times as a domestic trust in the United States;²³¹
- The group trust instrument expressly limits group trust participation to pension, profit-sharing, and stock bonus trusts, individual retirement accounts, certain plan-related custodial accounts and retirement income accounts;
- The group trust instrument expressly prohibits any part of its corpus or income that equitably belongs to any constituent plan adopting the group trust from

228.*Sutherland v. Comm'r*, 78 T.C. 395, 407 (1982).

229.IRS Revenue Ruling Rev. Rul. 69-25, 1969-1 C.B. 113

230.IRS Revenue Ruling 2014-24. See also IRS Revenue Rulings 81-100 and 2011-11.

231.*Id.*

being used for, or diverted to, any purpose other than for the exclusive benefit of the participants and the beneficiaries of that particular adopting plan;

- The group trust instrument expressly provides for separate accounts (and appropriate records) to be maintained to reflect the interest which each adopting group trust retiree benefit plan has in the group trust, including separate accounting for contributions, disbursements and investment experience; and
- The group trust instrument expressly prohibits an assignment by an adopting plan trust of any part of its equity or interest in the group trust.

E. Other Conditions for Tax Qualification

104. In order to qualify for the tax advantages of plan sponsorship and participation, the sponsor of a solo 401(k) plan, whether an individual or the individual's LLC, is required to show that it is carrying on a trade or business by engaging in an income-generating activity for profit on a regular and continuous basis. Investment activity by the plan itself, such as the purported Plan investments in Danish stocks, is not taken into account for this purpose.

III. OPERATIONAL STANDARDS FOR TAX-QUALIFIED 401(K) PLANS

105. U.S. law imposes a wide variety of other legal obligations on qualified pension plans, including regulatory reporting, disclosure and operational requirements. Failure to comply with these requirements may lead to the imposition of financial or other penalties on a plan or sponsor. Even where the ERISA statute does not apply, by its terms, its protections are nevertheless generally accepted as a uniform national standard for service providers and fiduciaries to follow. Legitimate pension plans are created in order to assist their participants in saving for retirement and enable both participants and their employers to enjoy certain tax advantages in doing so. Plan sponsors and vendors in the retirement industry make a point of operating and administering their plans in accordance with applicable legal obligations and the generally accepted standards enshrined in ERISA so as not to compromise or diminish these objectives. However, the Plans did not abide by one or more of the following legal obligations.

A. Indicia of Plan Asset Ownership and Domestic Trust Requirement

106. In the case of a plan subject to ERISA, the plan trustee may not maintain the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States. Generally speaking, this requires the trustee to have a U.S. presence.²³² Plan assets which are foreign securities may be placed under the management and control of a fiduciary which is a corporation or partnership organized under the laws of the United States or a State, which fiduciary has its principal place of business within the United States and is a bank, insurance company, or investment adviser meeting certain financial criteria and subject to U.S. regulatory agencies.²³³ The assets of a plan not otherwise subject to ERISA, such as a solo 401(k) plan, could be subject to these management and control restrictions depending on the breadth of the prototype plan language relating to fiduciary matters.

107. In addition to ERISA's indicia of ownership rules, Treasury regulations issued pursuant to the Code contain an additional requirement: not only must the trust be created or organized in the United States, but also "it must be maintained at all times as a domestic trust in the United States."²³⁴ In order for a trust to be considered domestic, "[o]ne or more United States persons must have the authority to control all substantial decisions of the trust."²³⁵ In addition, as noted above, IRS group trust rulings impose a domestic trust requirement, if plan assets are to be pooled with the assets of other plans.

232.ERISA §404(b)

233.ERISA Reg. §2550.404b-1(a). Alternatively, the U.S. entity must have physical possession of the indicia of ownership or, subject to certain restrictions protective of the plan, the indicia of ownership of the foreign securities may be held by a foreign entity as agent for a U.S. broker, dealer or bank. See ERISA Reg. §2550.404b-1(a)(2).

234.Treasury Regulation ("Treas. Reg.") § 1.401-1(a)(3)(i).

235.Treas. Reg. § 301.7701-7(a)(i).

B. Prohibited Transactions and The Service Provider Exemption

108. The Code and ERISA include provisions mirroring one another that prohibit retirement plans from engaging in certain transactions with certain disqualified persons including the furnishing of services between a plan and a service provider.²³⁶ However, ERISA and Code Section 4975 provide certain exceptions.

109. Under DOL regulations governing both Code and ERISA prohibitions, exemptive relief is provided subject to the service arrangement's meeting certain conditions. To qualify for the exemption, any payments by a plan for any service must satisfy three basic requirements: (1) the service must be necessary for the establishment or operation of the plan; (2) such service must be furnished under a contract or arrangement that is reasonable; and (3) no more than reasonable compensation may be paid for such service.²³⁷

1. Necessary Services

110. A service is necessary for the establishment or operation of a plan if it is appropriate and helpful to the plan in carrying out the purposes for which the plan was established or maintained.²³⁸

2. Reasonable Contract or Arrangement

111. In order for the contract or other arrangement under which a service provider renders services to be "reasonable," the plan must be capable of terminating it (1) without penalty, and (2) on reasonably short notice under the circumstances.²³⁹ The purpose of this

^{236.} See Code Section 4975(c)(1)(C).

^{237.} DOL Regulation §2550.408b-2(a).

^{238.} DOL Regulation §2550.408b-2(b).

^{239.} DOL Regulation §2550.408b-2(c).

requirement is to prevent a plan from becoming locked into a situation that becomes disadvantageous. In addition, a services arrangement will only be treated as reasonable if the service provider makes certain disclosures to the plan regarding its direct and indirect compensation and whether its services will be performed in a fiduciary capacity.

3. *Reasonable Compensation.*

112. As to what constitutes reasonable compensation for the provision of services, the most important factor is whether the compensation is comparable to compensation paid to others performing similar services. Typically, fees in excess of 20% of profits may be considered unreasonable by the IRS and/or the DOL.

113. If the parties to a plan services arrangement fail to meet these conditions, the Code imposes an excise tax on a party participating in the resulting prohibited transaction equal to 15% of the “amount involved” in the transaction. A second tier-tax equal to 100% of the amount involved is imposed if the transaction is not corrected within a specified period.

C. *Stock Lending Exemption*

114. Both the Code and ERISA prohibit certain other transactions between a plan and a disqualified person, such as a fiduciary or plan service provider, such as the lending of money or shares or other extension of credit.²⁴⁰ In order to permit certain loans relating to plan assets consisting of securities that may be beneficial to plans and involve a bank or broker-dealer, the DOL issued a class exemption from Code and ERISA prohibited transaction rules conditioned on detailed safeguards protecting plan interests.²⁴¹

240.Code Section 4975(c)(1)(B).

241.DOL Prohibited Transaction Exemption 2006-16.

115. Conditions applying to all securities lending include: for loans to a foreign bank or a foreign broker-dealer, the bank or broker must be from an eligible jurisdiction, such as the U.K. and certain other jurisdictions, which do not, however, include the Cayman Islands and the British Virgin Islands. If a U.K. bank or U.K. broker subject to the authority of the FCA is the borrower, the exemption requires that either (i) the bank or broker agrees to submit to the jurisdiction of the United States, agrees to appoint an agent for service of process in the United States, and agrees that the plan may elect to enforce the securities lending agreement exclusively in United States courts, or (ii) the lending agent is a U.S. bank or U.S. broker-dealer that agrees to provide the plan with an indemnity in the event of a borrower default. Further, the collateral for the loan must be brought up to the full value of the securities at least daily, and the borrower must furnish the lending agent with certain information regarding the borrower's financial condition, which in the case of an eligible foreign bank or broker includes a minimum equity of \$200 million. The plan must also be able to terminate the loan at will on no more than five days' notice. The borrower must also furnish the plan with the most recent audited statement of its financial condition and a written representation that at the time the loan is negotiated, there has been no material adverse change in its financial condition since the date of the most recent financial statement. The written documentation for plan loans to foreign borrowers must be maintained at a site within the jurisdiction of U.S. courts.

D. Records Requirement

116. An employer sponsoring a retirement plan is required to keep books and records available for review by the IRS. Unless they have delegated the responsibility to a third party, sponsors of solo 401(k) plans should retain copies of plan documents, including the plan's adoption agreement in the case of a prototype plan, and all plan amendments. Since the trust holding plan assets is part of the plan, trust records, such as investment statements, balance

sheets, and income statements also need to be accurately maintained. Participant records such as account balances, contributions and earnings, compensation data and participant statements should also be retained. In addition, in a solo 401(k) plan, the individual business owner will also be responsible for keeping track of the plan's income and expenditures.

117. Plan distributions need to be reported on a properly coded IRS Form 1099R indicating whether the distribution is an (i) early distribution, (ii) regular distribution after employment termination or attainment of age 59½ or (iii) a “required minimum distribution” mandated after attaining age 72.²⁴²

118. If total plan assets are \$250,000 or more at the end of a calendar year, the plan will be required to file an informational tax return with the IRS on Form 5500-EZ by the end of the seventh month following the end of the plan calendar year (usually by July 31st).

E. Regulatory Reporting

119. Pension plans, like other entities, are required to report certain holdings or transactions of cash or securities to the United States Government. This includes Treasury International System (TIC) Forms to the Federal Reserve Bank, and Reports of Foreign Bank and Financial Accounts (FBAR) to the Financial Crimes Enforcement Network (FinCEN). In my experience, qualified pension plans seek to comply with these reporting requirements in order not to pay the fines associated with non-compliance. If any of the Plans did not comply with these reporting requirements, it would suggest to me that the Plan might not be operating as a bona fide pension plan.

242. Currently, individuals must take their first required minimum distribution by April 1 of the year following the year in which they turn age 72. However, for Plan participants who turned 70½ before January 1, 2020, the age triggering such a distribution was age 70½.

IV. USING STANDARD FORMS TO ESTABLISH A PENSION PLAN DOES NOT MAKE A PENSION PLAN QUALIFIED.

120. Over the past few decades, it has become common for companies to provide prototype pension plan formation documents to sell to individuals or entities who wish to form pension plans, including solo 401(k) plans (*i.e.*, plans whose sole participant is self-employed).²⁴³ These providers seek and receive approval from the IRS that their prototype or volume submitter plan formation documents meet the requirements of the Code. This approval is provided in opinion letters from the IRS. The providers can then use the prototype plan as a template to assist customers in forming their own solo 401(k) or other pension plans. The plan providers will often provide the relevant IRS opinion letters to their customers along with the plan formation documents. These letters state that the plan sponsors may rely on such documents as to their form but routinely include a caveat as to the plan's operation.

121. Thus, merely because an individual forms a pension plan using an IRS-approved prototype plan template does not necessarily mean that that pension plan is tax-qualified under the Code, since the IRS's approval is limited to the form of the plan document.²⁴⁴ In order to be qualified under the Code, a pension plan must be operated in accordance with its formation document and the relevant provisions of the Code, ERISA, and other applicable law.²⁴⁵

122. Here, the vast majority of the Plans were formed as prototype plans, using templates provided by Broad Financial and/or Elite Pension Consultants. Some of these providers received opinion letters from the IRS stating that the Plan's prototype plan formation

243. These companies are sometimes referred to by the IRS as "volume submitter practitioners."

244. *See, e.g.* IRS Revenue Procedure 2017-41, section 7.01.

245. *See, e.g.*, JHVM_0028887 at -8911; WH_MDL_00274933 at -4938.

document was “acceptable under section 401 of the [IRC].”²⁴⁶ These IRS opinion letters, however, also explicitly state that the IRS’s “opinion on the acceptability of the form of the plan is not a ruling or determination as to whether an employer’s plan qualifies under Code section 401(a)” and that “[t]he terms of the plan must be followed in operation.”²⁴⁷ Thus, a pension plan cannot assert its validity based solely on these letters: If a pension violates its formation document, the Code, or other applicable law, then the Plan loses its tax-qualified status.

123. I add that, the Plans were required by SKAT to include IRS Form 6166 in their refund applications, as evidence that the Plans were residents of the United States for the purposes of the Treaty.²⁴⁸ A plan’s receipt of this form is also not per se evidence that a pension plan is qualified under the Code, since Form 6166 letters explicitly state that the IRS certifies “*to the best of our knowledge* the above-name entity is ... qualified under section 401(a)” of the Code.²⁴⁹

124. In short, that a pension plan is formed using a plan formation document accompanied by an applicable IRS pre-approval letter does not mean the plan is qualified under Code section 401(a); the plan must also be operated in accordance with its formation document, the Code, and other applicable law. Nor is a Form 6166 per se proof that a pension plan that obtains one is tax-exempt under the Code.

246. *See, e.g.*, JHVM_0028887 at -8911.

247. *See, e.g.*, JHVM_0028887 at -8911.

248. *See, e.g.*, JHVM_0003506.

249. *See, e.g.*, JHVM_0003506 (emphasis added).

V. THE ARGRE AND KAYE SCHOLER PLANS DID NOT MEET THE REQUIREMENTS TO BE TAX-EXEMPT

A. The Argre and Kaye Scholer Plans Were Not Established or Operated for The Exclusive Benefit of Their Participants and Plan Beneficiaries

125. As discussed in paragraphs ___ - ___, *supra*, a valid pension plan must be created and operated for the exclusive benefit of the plan and its participants and beneficiaries. As part of the DWT scheme, the Argre Plans paid 66% of the DWT refunds received from SKAT to Ganymede.²⁵⁰ The Kaye Scholer Plans paid Ganymede 75% of the DWT refunds.²⁵¹ Further, the Argre and Kaye Scholer Plans that were in partnerships paid either 90% or 95% of the funds remaining after payments to Ganymede, the brokers, and others over to the other entities in the partnerships.²⁵² Thus, these plans received between 1% and 4% of the DWT refunds paid by SKAT.

126. With one exception, all the Argre and Kaye Scholer Plans were created less than a year before they began to trade in Danish securities and submit DWT refund applications to SKAT.²⁵³ Van Merkensteijn admitted at his deposition that the Basalt Plan and the other Kaye Scholer Plans formed in the summer 2014 were created to participate in the scheme.²⁵⁴ Klugman testified that he was told by Sanjay Shah that to participate in the scheme he was required to establish multiple pension plans.²⁵⁵

250. *See, e.g.*, Markowitz Dep. Tr. at 290:19-22, 540:14-17, 541:10-17.

251. Klugman Dep. Tr. 158:19-159:1.

252. *See* Appendix G (Argre Plans Partnership Summary Chart); Appendix I (Kaye Scholer Plans Partnership Summary Chart).

253. *See* Appendix F (Argre Plans Summary Chart); Appendix I (Kaye Scholer Plans Summary Chart).

254. Van Merkensteijn Dep. Tr at 174:6-10.

255. Klugman Dep. Tr. at 23:4-13.

127. It is clear from these facts, that the Plans were created to participate in the scheme and that they were created mostly for the benefit of Solo, Ganymede, Shah, Markowitz, van Merkensteijn, and Klugman. Thus, the Plans that were in partnerships were created for the benefit of Ganymede, Shah, and the entities with which they were in partnership, including entities controlled by Markowitz, van Merkensteijn and/or Klugman.

128. In my experience evaluating retirement plan investments and the compensation of service providers and investment managers, I have never seen such egregiously one-sided compensation arrangements as those between the Plans and Ganymede/Solo. Further, if Ganymede did not provide the Plans any real or legitimate services, the compensation to Ganymede would be considered even more improper. The further diversion of Plan assets to Klugman, Markowitz, van Merkensteijn, and/or the other Argre principals left the Plans with almost nothing from the gross proceeds of the refunds and exacerbated the violation of the Exclusive Benefit Rule.

B. *The Argre and Kaye Scholer Plans Were Not Funded in Accordance with the Code.*

129. The 401(k) plans established pursuant to Solo Capital's dividend trading scheme were, as a general matter, not funded with assets derived from the plan sponsors' trade or business income and were improperly funded through putative stock loans.

130. Generally speaking, qualified plan sponsors must be actively engaged in a profit-making trade or business. Self-employed individuals must have earned income,²⁵⁶ which generally²⁵⁷ means net earnings from self-employment including, the gross income derived from

256.Code Section 401(c)(2)(A).

257.Code Section 401(c)(2)(B) provides that earned income includes gains and net earnings from the sale or other disposition of property by an individual whose personal efforts created such property, but that component of earned income did not apply to any of the plans established in the litigation.

the trade or business²⁵⁸ less any applicable deductions. The Bellwether Plans likely did not meet this requirement.

131. For instance, prior to the trading, the Delvian Plan was funded with \$100.²⁵⁹ The RJM Plan was also initially funded with \$100, and these funds appear attributable to sources other than the Plan's sponsor.²⁶⁰ The Basalt Plan was funded with \$1,000, and again it is uncertain that those funds came from the earnings of the Basalt Plan's sponsoring LLC.²⁶¹ Altbach funded the Roadcraft Plan with \$100 of his personal assets.²⁶² It is my opinion that these issues were sufficient to disqualify these bellwether Plans under the Code.

132. These facts raise two issues: first, to the extent that the Plans were funded from sources other than their LLC sponsors or their participants, acting as participants in deferring compensation from the Plan sponsor, the funding would be improper, and the Plans disqualified; second, to the extent that the LLCs sponsoring the Plans conducted no trade or business from which the Plans could be funded, that failure would be disqualifying.

133. The assets of these Plans were never transferred to their custodial accounts at Solo Capital or the other Shah-controlled broker-custodians prior to the Plans' purchases of millions of dollars of Danish securities.²⁶³ The economic unreality of this arrangement indicates that the

258.Code Section 1402(c).

259.MPSKAT00024171.

260.MPSKAT00003967.

261.*See* JHVM_0001821 at -1855.

262.Wells Fargo Account Statement for Roadcraft Technologies LLC Roth 401K Plan (August 26, 2014 - September 24, 2014) (RC00000059); Altbach Dep. Tr. at 148:23 – 149:4.

263.MPSKAT00082600; MPSKAT00078902; WH_MDL_00035630; WH_MDL_00020362.

Plans were acting as conduits for third-party interests and not intended to be funded in any meaningful way from legitimate sources, such as Plan sponsors or participants.

134. Similar issues with the lack of funding, improper source of funding, and failure to deposit Plan assets in the custodial accounts apply to nearly all the Argre and Kaye Scholer Plans.

C. The Argre and Kaye Scholer Plans Were Not Established or Operated as Permanent Programs.

135. A pension plan must be a permanent as opposed to temporary program and plan sponsors must be aware of circumstances leading to plan termination or abandonment before deciding to establish one. Nearly all the Argre and Kaye Scholer Plans were established within a year of when they purportedly began trading in Danish securities.²⁶⁴ Many were created specifically to participate in the DWT scheme,²⁶⁵ and many of the Plans were terminated or left dormant after SKAT announced it would stop paying refunds on their DWT refund applications.²⁶⁶ For instance, Altbach testified that he was unsure whether his five Plans—including the Roadcraft Plan—were still in existence.²⁶⁷ Klugman terminated all of his Plans in 2016.²⁶⁸ With one exception, in their responses to SKAT's interrogatories, the LLC owner-participants in the 26 Kaye Scholer Plans that were in partnerships could not state whether the Plans or their sponsoring LLCs had been terminated.²⁶⁹ In my experience, this would be a factor

264. See Appendix F (Argre Plans Summary Chart); Appendix H (Kaye Scholer Plans Summary Chart).

265. Van Merkensteijn Dep. Tr. at 174:6-10; Klugman Tr. at 23:4-13.

266. See Appendix F (Argre Plans Summary Chart); Appendix H (Kaye Scholer Plans Summary Chart).

267. Altbach Dep. Tr. at 203:15-18.

268. See Appendix I (Kaye Scholer Plans Summary Chart).

269. The Plan Defendants Responses and Objections to Plaintiff SKAT's First Set of Interrogatories, Response to Interrogatory Nos. 11 & 12.

considered in whether the Plans were abandoned and thus effectively terminated. The RJM Plan was funded in its first year (2013) but funding ceased in 2014, 2015, and 2016.²⁷⁰

136. To the extent the Plan participants and sponsoring LLCs ceased making Plan contributions, the likelihood of abandonment is reinforced. That the applicable Argre and Kaye Scholer Plans were actively operated for such a short period of time is strong evidence that the applicable Argre and Kaye Scholer Plans, from their inception, were not established as permanent bona fide retirement benefit programs.

137. In addition, the only permissible basis for Plan termination shortly after its formation is a business reason by the sponsoring LLC, and the failure of the Argre and Kaye Scholer Plans to receive profits from DWT refunds, would not be a sufficient reason to terminate the Plans which might otherwise be expected to continue in existence for an indefinite period of time, during which it would be expected to invest Plan assets derived from participant and plan sponsor contributions as well as the proceeds of prior investments.

D. The Assets in the Argre and Kaye Scholer Plans' Custodian Accounts Were Not Properly Segregated from the Assets of Other Entities.

138. The Solo Capital and other custody agreements I have reviewed in connection with the scheme all permitted, in one form or another, the pooling of the Plans' assets with the assets of the custodian's other clients.²⁷¹ Under IRS rules, plan trusts generally may not commingle plan assets with the assets of other investors unless the other investors are tax-advantaged retirement arrangements and the pooling of assets is made through a group trust created or organized in the United States and maintained at all times as a domestic trust in the

²⁷⁰ WH_MD_00358600; WH_MD_00356182 at -6195.

²⁷¹ See, e.g., MPSKAT00003776 § 5.3.

United States.²⁷² If the assets of the Argre and Kaye Scholer Plans were in fact pooled with the assets of other plans, as their custodial agreements indicated, there is no indication that a group trust meeting IRS conditions was ever created for purposes of holding their pooled assets. If the Plans participating in the scheme had at any time been pooled with non-plan assets of Solo Capital or another custodian or trustee, that fact alone would likely have led to their disqualification for U.S. tax purposes. In this event the pooling would have caused the Plans to lose their tax-qualified status which would, in turn, have made them ineligible for beneficial treatment under the Treaty.

VI. THE KAYE SCHOLER AND ARGRE PLANS WERE NOT OPERATED IN ACCORDANCE WITH THE APPLICABLE STANDARDS, RULES, AND REGULATIONS FOR QUALIFIED PLANS.

A. Indicia of Ownership and Domestic Trust Requirement

139. As discussed above, assets of the Argre and Kaye Scholer Plans were custodied overseas by Solo Capital and other foreign custodians. This violated the previously discussed ERISA mandate that a plan trustee may not maintain the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States. While these one-participant plans were exempt from ERISA, many of the Kaye Scholer Plans' formation documents included the following language:

The Trustee shall not hold the indicia of ownership of any assets of the Trust Fund outside the jurisdiction of the District Courts of the United States unless in compliance with Section 404(b) of ERISA and regulations thereunder.²⁷³

These Plans and others with similar terms would have been subject to and violated the foreign trust prohibition by virtue of having their assets held by foreign custodians.

²⁷²IRS Revenue Ruling 2014-24.

²⁷³Roadcraft Plan Section 10.02(g) of individual plans established in July 2014. *See also* Basalt Plan formation document.

140. Moreover, it does not appear that Solo met the domestic trust requirements imposed by the IRS and so must be treated as a foreign custodian.²⁷⁴ In order for a trust to be considered domestic, “[o]ne or more United States persons have the authority to control all substantial decisions of the trust.”²⁷⁵ Here Solo Capital and/or Ganymede provided the Kaye Scholer and Argre Plans with instructions on which shares of Danish securities were to be traded, the volume of shares to trade, and the counterparties or brokers with whom to trade.²⁷⁶ Even though the Kaye Scholer and Argre Plans could theoretically decline to engage in the trades, in practice, the Plans assented to nearly every trade proposed by Solo Capital and/or Ganymede.²⁷⁷ The Kaye Scholer and Argre Plans therefore failed the Code’s domestic trust requirement.

B. Prohibited Transactions

1. Service Provider Exemption

141. Solo Capital, Ganymede, and other Shah-controlled entities not only provided the Argre and Kaye Scholer Plans with custody and clearing services, but also directed which shares of Danish securities to trade, the volumes of shares to trade, and the counterparties and brokers with whom to trade.²⁷⁸ This made Solo Capital, Ganymede, and other Shah-controlled entities fiduciary service providers rendering investment advice. Solo Capital, Ganymede, and the related Shah-controlled entities therefore constitute disqualified persons under section 4975 of the IRC. Accordingly, the purported Danish trading constitutes prohibited transactions.

274.Treas. Reg. § 1.401-1(a)(3)(i).

275.Treas. Reg. § 301.7701-7(a)(i).

276.*See, e.g.*, Klugman Dep. Tr. at 110:6-23.

277.Markowitz Dep. Tr. at 538:2-24.

278. *See, e.g.*, Klugman Dep. Tr. at 110:6-23.

142. For the avoidance of doubt, it is also my opinion that Solo Capital, Ganymede and the affiliated Shah-controlled entities did not meet any of the prohibited transaction exemptions listed in Code Section 4975 or applicable DOL regulations. Specifically, the Shah-controlled entities did not meet the conditions for the service provider exemption contained in Code Section 4975(d)(2), as interpreted by applicable DOL regulations. In order to qualify for this exemption, the fees paid by the Plans to Ganymede would have had to be no more than a reasonable amount, and Solo and the Plans would have borne the burden of proving that the fees were reasonable. The Argre Plans paid Ganymede 66% of the refunds they received, and the Kaye Scholer Plans paid Ganymede 75% of the refunds.²⁷⁹ Kaye Scholer and Ben-Jacob's clients were unable to identify any service providers with a comparable fee structure or any fair market relationships by hedge funds or other investment advisors that charged fees in that range.²⁸⁰ In my opinion, these percentages and the dollar amounts they represented were well above what the IRS or DOL would have considered reasonable, and therefore the transactions and related fees were prohibited under the Code and ERISA.

2. Stock Lending Exemption

143. Securities lending was an element of all the Danish stock transactions designed by Solo Capital.²⁸¹ The Plans' stock lending arrangements I have seen did not meet the conditions required for exemption from Code and ERISA prohibited transaction rules.²⁸² The stock loan counterparties were typically Cayman Island and British Virgin Island entities. I have seen no

279. Klugman Dep. Tr. 158:19-159:1; Markowitz Dep. Tr. at 290:19-22, 540:14-17, 541:10-17.

280 See, e.g., JHVM_0010590 at -602-03.

281 See, e.g., MPSKAT00008759.

282. See, e.g., MPSKAT00068862.

documentation that these entities had a banking or brokerage license in the United Kingdom or any other jurisdiction or that these borrowers purported to have equity of \$200 million or more or provided the Plans any financial statements to support any such assertion. Moreover, Solo Capital's financial statements never reflected an equity value meeting that amount. None of the stock lending arrangements I have seen involved a U.S. financial institution to indemnify the Plan against a default and none of Solo Capital or any of its affiliates or stock lending counterparties agreed to submit to the jurisdiction of U.S. courts.²⁸³ And the terms of the General Master Securities Lending Agreement required 15 days' notice of termination—far more than the required five days.²⁸⁴

VII. THE LEHMAN PLANS DID NOT MEET THE CODE REQUIREMENTS TO BE TAX-EXEMPT.

A. The Lehman Plans Were Not Established or Operated for The Exclusive Benefit of Their Participants and Plan Beneficiaries.

144. The FWC Plan received no money, although Lehman himself received over \$10 million from the scheme in 2015 as compensation for his recruiting efforts.²⁸⁵ Likewise, the Proper Pacific Plan itself received no money, but Bradley was paid over \$5 million for helping establish Plans to participate in the scheme.²⁸⁶ Both Bradley and Lehman admitted at their depositions that the Plans were formed (at least in part) to participate in the scheme.²⁸⁷ That these two Plans were created to participate in the DWT scheme and that the Plans received no

²⁸³ See, e.g., MPSKAT00068862.

²⁸⁴ See, e.g., MPSKAT00068862.

²⁸⁵ Lehman Dep. Tr. at 453:24 – 454:10; Lehman Dep. Tr. at 464:23 – 472:16.

²⁸⁶ Bradley Dep. Tr. 276:19-277:10; 306:14-20; 307:14-309:4

²⁸⁷ Bradley Dep. Tr. 84:16 – 85:13; Lehman Dep. Tr. at 393:16 – 394:8.

APPENDIX A

No.	Plan	SDNY Docket No.
1	2321 Capital Pension Plan	19-cv-10713-LAK
2	Ackview Solo 401(K) Plan	18-cv-04900-LAK
3	Acorn Capital Corporation Employee Profit Sharing Plan	18-cv-10088-LAK
4	Acorn Capital Strategies LLC Employee Pension Profit Sharing Plan & Trust	18-cv-10088-LAK
5	Aerovane Logistics LLC Roth 401(K) Plan	18-cv-07828-LAK
6	Albedo Management LLC Roth 401(K) Plan	19-cv-01785-LAK
7	Alden Investments Pension Plan	21-cv-05339-LAK
8	American Investment Group Of New York, L.P. Pension Plan	18-cv-09841-LAK
9	AOI Pension Plan	21-cv-05339-LAK
10	Avanix Management LLC Roth 401(K) Plan	19-cv-01867-LAK
11	Azalea Pension Plan	19-cv-01893-LAK
12	Ballast Ventures LLC Roth 401(K) Plan	19-cv-01781-LAK
13	Bareroot Capital Investments LLC Roth 401(K) Plan	19-cv-01783-LAK
14	Basalt Ventures LLC Roth 401(K) Plan	19-cv-01866-LAK
15	Batavia Capital Pension Plan	19-cv-01895-LAK
16	Battu Holdings LLC Roth 401(K) Plan	19-cv-01794-LAK
17	Bernina Pension Plan	19-cv-01865-LAK
18	Blackrain Pegasus LLC Solo 401(K) Plan	18-cv-10119-LAK
19	Blue Ocean Equity LLC Retirement Plan & Trust	18-cv-10137-LAK
20	Bowline Management Pension Plan	19-cv-10713-LAK
21	California Catalog Company Pension Plan	19-cv-10713-LAK
22	Calypso Investments Pension Plan	19-cv-01904-LAK
23	Cambridge Way LLC 401(K) Profit Sharing Plan	18-cv-10090-LAK
24	Cantata Industries LLC Roth 401(K) Plan	19-cv-01798-LAK
25	Carrick Holdings Pension Plan	21-cv-05339-LAK
26	Cavus Systems LLC Roth 401(K) Plan	19-cv-01869-LAK
27	Cedar Hill Capital Investments LLC Roth 401(K) Plan	19-cv-01922-LAK
28	Clove Pension Plan	19-cv-10713-LAK
29	Cole Enterprises USA Retirement Plan & Trust	18-cv-10118-LAK
30	Crucible Ventures LLC Roth 401(K) Plan	19-cv-01800-LAK
31	CSCC Capital Pension Plan	18-cv-09669-LAK
32	Davin Investments Pension Plan	19-cv-10713-LAK
33	Del Mar Asset Management Saving & Retirement Plan	18-cv-05374-LAK
34	Delgado Fox LLC Solo 401(K) Plan	18-cv-10125-LAK
35	Delvian Llc Pension Plan	19-cv-10713-LAK
36	DFL Investments Pension Plan	19-cv-10713-LAK
37	Dicot Technologies LLC Roth 401(K) Plan	19-cv-01788-LAK
38	DW Construction, Inc. Retirement Plan	18-cv-09797-LAK
39	Eclouge Industry LLC Roth 401(K) Plan	19-cv-01870-LAK
40	Edgepoint Capital LLC Roth 401(K) Plan	18-cv-07827-LAK
41	Fairlie Investments LLC Roth 401(K) Plan	19-cv-01791-LAK
42	Federated Logistics LLC 401(K) Plan	18-cv-08655-LAK
43	FiftyEightSixty LLC Solo 401(K) Plan	18-cv-10073-LAK

No.	Plan	SDNY Docket No.
44	First Ascent Worldwide LLC Roth 401(K) Plan	19-cv-01792-LAK
45	Fulcrum Productions LLC Roth 401(K) Plan	19-cv-01928-LAK
46	Ganesha Industries Pension Plan	21-cv-05339-LAK
47	Green Scale Management LLC Roth 401(K) Plan	19-cv-01926-LAK
48	Gyos 23 LLC Solo 401(K) Plan	18-cv-10122-LAK
49	Hadron Industries LLC Roth 401(K) Plan	19-cv-01868-LAK
50	Headsail Manufacturing LLC Roth 401(K) Plan	18-cv-07824-LAK
51	JML Capital LLC 401(K) Plan	18-cv-10092-LAK
52	JSH Farms LLC 401(K) Plan	18-cv-09489-LAK
53	Kamco Investments, Inc. Pension Plan	18-cv-09836-LAK
54	Kamco LP Profit Sharing Pension Plan	18-cv-09837-LAK
55	Keystone Technologies LLC Roth 401(K) Plan	19-cv-01929-LAK
56	KK Law Firm Retirement Plan Trust	18-cv-10127-LAK
57	KRH Farms LLC 401(K) Plan	18-cv-09491-LAK
58	Laegeler Asset Management Pension Plan	19-cv-10713-LAK
59	Limelight Global Productions LLC Roth 401(K) Plan	19-cv-01803-LAK
60	Linden Associates Defined Benefit Plan	18-cv-09838-LAK
61	Lion Advisory Inc. Pension Plan	19-cv-10713-LAK
62	Loggerhead Services LLC Roth 401(K) Plan	19-cv-01806-LAK
63	Mazagran Pension Plan	21-cv-05339-LAK
64	MGH Farms LLC 401(K) Plan	18-cv-09439-LAK
65	Michelle Investments Pension Plan	19-cv-01906-LAK
66	Mill River Capital Management Pension Plan	19-cv-10713-LAK
67	Moira Associates LLC 401(K) Plan	18-cv-09839-LAK
68	Monomer Industries LLC Roth 401(K) Plan	19-cv-01801-LAK
69	Natoli Management Pension Plan	18-cv-10093-LAK
70	Newsong Fellowship Church 401(K) Plan	18-cv-10100-LAK
71	Next Level Pension Plan	19-cv-10713-LAK
72	Nova Fonta Trading LLC 401(K) Plan	18-cv-10094-LAK
73	NYCATX LLC Solo 401(K) Plan	18-cv-04898-LAK
74	Omineca Pension Plan	19-cv-01894-LAK
75	OneZeroFive LLC Solo 401(K) Plan	18-cv-10080-LAK
76	PAB Facilities Global LLC Roth 401(K) Plan	19-cv-01808-LAK
77	Pegasus Fox 23 LLC Solo 401(K) Plan	18-cv-10126-LAK
78	Pinax Holdings LLC Roth 401(K) Plan	19-cv-01810-LAK
79	Pleasant Lake Productions Pension Plan	21-cv-05339-LAK
80	Plumrose Industries LLC Roth 401(K) Plan	19-cv-01809-LAK
81	Rajan Investments Llc Pension Plan	19-cv-10713-LAK
82	Raubritter LLC Pension Plan	18-cv-04833-LAK
83	Remece Investments LLC Pension Plan	19-cv-01911-LAK
84	Riverside Associates Defined Benefit Plan	18-cv-09840-LAK
85	RJM Capital Pension Plan	19-cv-01898-LAK

No.	Plan	SDNY Docket No.
86	Roadcraft Technologies LLC Roth 401(K) Plan	19-cv-01812-LAK
87	Routt Capital Pension Plan	19-cv-01896-LAK
88	Sander Gerber Pension Plan	18-cv-04899-LAK
89	Sanford Villa Pension Plan	18-cv-04767-LAK
90	Spirit On The Water Pension Plan	19-cv-10713-LAK
91	SRH Farms LLC 401(K) Plan	18-cv-09434-LAK
92	Starfish Capital Management LLC Roth 401(K) Plan	19-cv-01871-LAK
93	Sterling Alpha LLC 401(K) Profit Sharing Plan	18-cv-04894-LAK
94	Sternway Logistics LLC Roth 401(K) Plan	19-cv-01813-LAK
95	Tarvos Pension Plan	19-cv-01930-LAK
96	The 78 Yorktown Pension Plan	18-cv-09565-LAK
97	The Aria Pension Plan	18-cv-05147-LAK
98	The Aston Advisors LLC 401(K) Plan	18-cv-04770-LAK
99	The Atlantic DHR 401(K) Plan	18-cv-04430-LAK
100	The Balmoral Management LLC 401(K) Pension Plan	18-cv-10067-LAK
101	The Beech Tree Partners 401(K) Plan	18-cv-10069-LAK
102	The Belforte Pension Plan	18-cv-05150-LAK
103	The Bella Consultants Pension Plan	18-cv-10136-LAK
104	The Blackbird 401(K) Plan	18-cv-10070-LAK
105	The Bradley London Pension Plan	18-cv-04047-LAK
106	The Bravos Advisors 401(K) Plan	18-cv-05151-LAK
107	The Busby Black 401(K) Plan	18-cv-04522-LAK
108	The Cambridge Town Line Pension Plan	18-cv-09570-LAK
109	The Canada Rock LLC 401(K) Plan	18-cv-04531-LAK
110	The Cardinal Consulting Pension Plan	18-cv-10028-LAK
111	The Chambers Property Management LLC 401(K) Plan	18-cv-10071-LAK
112	The Costello Advisors Pension Plan	18-cv-05158-LAK
113	The Crow Associates Pension Plan	18-cv-10031-LAK
114	The Diamond Scott Capital Pension Plan	18-cv-09587-LAK
115	The Dink 14 LLC 401(K) Plan	18-cv-10091-LAK
116	The DMR Pension Plan	18-cv-04049-LAK
117	The Dosmon BLY Pension Plan	18-cv-05045-LAK
118	The Egret Associates LLC 401(K) Plan	18-cv-10030-LAK
119	The Eskin Pension Plan	18-cv-05164-LAK
120	The Everything Clean LLC 401(K) Plan	18-cv-10063-LAK
121	The Fieldcrest Pension Plan	18-cv-05180-LAK
122	The FWC Capital LLC Pension Plan	18-cv-10098-LAK
123	The Goldstein Law Group PC 401(K) Profit Sharing Plan	18-cv-05053-LAK
124	The Green Group Site Pension Plan	18-cv-10134-LAK
125	The Hawk Group Pension Plan	18-cv-10074-LAK
126	The Heron Advisors Pension Plan	18-cv-10032-LAK
127	The Hibiscus Partners LLC 401(K) Plan	18-cv-10076-LAK

No.	Plan	SDNY Docket No.
128	The Hoboken Advisors LLC 401(K) Plan	18-cv-10035-LAK
129	The Hotel Fromance Pension Plan	18-cv-09588-LAK
130	The Houston Rocco LLC 401(K) Plan	18-cv-04050-LAK
131	The India Bombay LLC 401(K) Pension Plan	18-cv-05057-LAK
132	The ISDB Pension Plan	18-cv-04536-LAK
133	The Jayfran Blue Pension Plan	18-cv-10036-LAK
134	The Joanne E. Bradley Solo 401(K) Plan	18-cv-10124-LAK
135	The JT Health Consulting LLC 401(K) Plan	18-cv-10039-LAK
136	The Jump Group LLC 401(K) Plan	18-cv-10064-LAK
137	The KASV Group Pension Plan	18-cv-05309-LAK
138	The Kodiak Capital Pension Plan	18-cv-05185-LAK
139	The Krabi Holdings LLC 401(K) Plan	18-cv-05307-LAK
140	The Kyber Pension Plan	18-cv-05186-LAK
141	The Lakeview Advisors 401(K) Plan	18-cv-10049-LAK
142	The LBR Capital Pension Plan	18-cv-04052-LAK
143	The Lerici Capital Pension Plan	18-cv-05188-LAK
144	The Ludlow Holdings 401(K) Plan	18-cv-05189-LAK
145	The M2F Wellness LLC 401(K) Plan	18-cv-04890-LAK
146	The Maple Advisors LLC 401(K) Plan	18-cv-10077-LAK
147	The Monin Amper Pension Plan	18-cv-04538-LAK
148	The Mountain Air LLC 401(K) Plan	18-cv-09589-LAK
149	The MPQ Holdings LLC 401(K) Plan	18-cv-04892-LAK
150	The Mueller Investments Pension Plan	18-cv-10135-LAK
151	The NYC Stanismore Pension Plan	18-cv-04541-LAK
152	The Oak Tree One 401(K) Plan	18-cv-10123-LAK
153	The Oaks Group Pension Plan	18-cv-10065-LAK
154	The Osprey Associates LLC 401(K) Plan	18-cv-10060-LAK
155	The Patrick Partners Conglomerate Pension Plan	18-cv-09668-LAK
156	The Petkov Management LLC 401(K) Plan	18-cv-05300-LAK
157	The Petkov Partners Pension Plan	18-cv-05299-LAK
158	The Proper Pacific LLC 401(K) Plan	18-cv-04051-LAK
159	The Random Holdings 401(K) Plan	18-cv-07829-LAK
160	The RDL Consulting Group LLC Pension Plan	18-cv-10099-LAK
161	The Regoleth Pension Plan	18-cv-05190-LAK
162	The Robin Daniel Pension Plan	18-cv-10096-LAK
163	The Saba Capital LLC 401(K) Plan	18-cv-05192-LAK
164	The Sandpiper Pension Plan	18-cv-10061-LAK
165	The Sea Bright Advisors LLC 401(K) Plan	18-cv-10082-LAK
166	The Sector 230 LLC 401(K) Plan	18-cv-04771-LAK
167	The Shapiro Blue Management LLC 401(K) Plan	18-cv-09666-LAK
168	The Sinclair Pension Plan	18-cv-10133-LAK
169	The SKSL LLC Pension Plan	18-cv-09590-LAK

No.	Plan	SDNY Docket No.
170	The Skybax LLC 401(K) Plan	18-cv-10095-LAK
171	The Snow Hill Pension Plan	18-cv-09650-LAK
172	The SPKK LLC 401(K) Plan	18-cv-05308-LAK
173	The Stark Pension Plan	18-cv-05194-LAK
174	The Stor Capital Consulting LLC 401(K) Plan	18-cv-04434-LAK
175	The SVP 401(K) Plan	18-cv-05305-LAK
176	The Tag Realty Advisors LLC 401(K) Plan	18-cv-10083-LAK
177	The Texas Rocco LLC 401(K) Plan	18-cv-04543-LAK
178	The Throckmorton Advisors 401(K) Plan	18-cv-10086-LAK
179	The TKKJ LLC 401(K) Plan	18-cv-04896-LAK
180	The Valerius LLC Solo 401(K) Plan	18-cv-10129-LAK
181	The Wave Maven LLC 401(K) Plan	18-cv-10066-LAK
182	The West River Pension Plan	18-cv-05193-LAK
183	The Westport Advisors LLC 401(K) Plan	18-cv-05183-LAK
184	The Westridge Ave LLC 401(K) Plan	18-cv-09665-LAK
185	The Zen Training LLC 401(K) Plan	18-cv-10062-LAK
186	Traden Investments Pension Plan	19-cv-10713-LAK
187	Trailing Edge Productions LLC Roth 401(K) Plan	19-cv-01815-LAK
188	Triton Farms LLC 401(K) Plan	18-cv-09490-LAK
189	True Wind Investments LLC Roth 401(K) Plan	19-cv-01818-LAK
190	Tumba Systems LLC Roth 401(K) Plan	19-cv-01931-LAK
191	Vanderlee Technologies Pension Plan	19-cv-01918-LAK
192	Voojo Productions LLC Roth 401(K) Plan	19-cv-01873-LAK
193	Xiphias LLC Pension Plan	19-cv-01924-LAK

APPENDIX B

MARCIA S. WAGNER, ESQ.

PROFESSIONAL EXPERIENCE

The Wagner Law Group, A Professional Corporation, formerly known as Marcia S. Wagner, Esq. & Associates, P.C., Managing Director, Specializing in ERISA/Employee Benefits Law (August 1996 – Present)

K&L Gates, formerly known as Warner & Stackpole, Partner, Specializing in ERISA/Employee Benefits Law; Head of ERISA/Employee Benefits Practice Group (July 1995 – August 1996)

Powers & Hall, Of Counsel, Specializing in ERISA/Employee Benefits Law; Head of ERISA/Employee Benefits Practice Group (July 1993 – July 1995)

Choate, Hall & Stewart, Associate, ERISA/Employee Benefits (January 1989 - June 1993)

Bingham, Dana & Gould, Associate, Corporate Taxation/ERISA/Employee Benefits (September 1987 - January 1989)

Harvard Law School, Teaching Assistant, Legal Writing Course (December 1986 - February 1987)

Harvard College, Economics Teaching Fellow (August 1985 - June 1986)

Cornell University, Teaching Assistant, Government Course (graduate level) (August 1983 - June 1984)

EDUCATION

Harvard Law School, Juris Doctorate, 1987

Honors: John M. Olin Law and Economics Research Fellowship, Who's Who Among American Law Students, Economics Teaching Fellowship at Harvard College

Cornell University, Bachelor of Arts, 1984

Courses: Double major in Economics and Government
Honors: Summa cum laude, dean's list every semester, distinction in all subjects, honor societies: Phi Beta Kappa, Phi Kappa Phi, Alpha Lambda Delta

London School of Economics and Political Science, General Course Degree, 1983

Courses: Graduate level Economics
Honors: Class One Distinction, top 5% of all foreign students

PROFESSIONAL ACTIVITIES

Bar Admissions Massachusetts, November 1987
District of Columbia, December 1987

**Appointments
and Committee
Memberships**

IRS Advisory Committee on Tax Exempt and Government Entities (June 2007 – June 2010; 2010 Employee Benefits Subcommittee Chair) – Advice and consultation to the IRS on pension matters:

2010 – Analysis and Recommendations Regarding the IRS’s Determination Letter Program

2009 – International Pension Issues in a Global Economy: A Survey and Assessment of IRS’ Role in Breaking Down the Barriers

2008 – Improving the Employee Plans Compliance Resolution System: A Roadmap for Greater Compliance

Legg Mason Retirement Advisory Council (March 2010 -)

Fellow, American College of Employee Benefits Counsel, September 2008

Harvard Law School, 10th, 15th, 20th, 25th and 30th Reunion Committee

Membership to the National Association of Professional Women (2007 -)

Advisory Board on Compensation Planning for Tax Management, Inc. (1993 -)

Advisory Council for Foundation for Fiduciary Studies, Joseph M. Katz School of Business, University of Pittsburgh (2004-)

Advisory Board for Pension Assistance Project of Gerontology Institute of UMass Boston (1993 - 1997)

American Arbitration Association, Council of Arbitrators (Focus areas: ERISA/employee benefits law) (1993 - 1995)

Commonwealth Institute – Million Dollar Circle Member (2005 -)

Editorial Advisory Committee for Profit Sharing/401(k) Council of America (2005 -)

Editorial Board for Law Firm Partnership & Benefits Report (1999 -)

Employee Benefits Committee, American Bar Association Tax Section
(1990 -)

ERISA/Employee Benefits Law Committee, Boston Bar Association (1990 -)

Pension Liaison Committee, IRS Key District Office, Brooklyn, NY (1992 -)

Tax Section Council, Massachusetts Bar Association (1992 -)

**Books
Published**

Mandated Benefits 2020 Compliance Guide – Co-authors Katherine A. Brustowicz, Danna L. Delano, David G. Gabor, Barry L. Salkin, and Roberta Casper Watson, Wolters Kluwer, December 2019

Exploring Advice: What You Need to Know About Good Financial Advice, a Quality Financial Plan and the Role of a Fiduciary, Kevin Knull, CFP (Marcia S. Wagner, contributing author)

Quick Reference to HIPAA Compliance, Aspen Publishers, 2016-2017 edition

The Advisor's Guide to the DOL Fiduciary Rule - The National Underwriter Company, a division of ALM Media, LLC, 2016

Financial Aspects of Divorce in Massachusetts, MCLE New England, 2016

Quick Reference to HIPAA Compliance, Aspen Publishers, 2015-2016 edition

Quick Reference to HIPAA Compliance, Aspen Publishers, 2014-2015 edition

BNA Tax Management Portfolio: “EPCRS - Plan Correction and Disqualification”, 2014

Advising Small Businesses: “Qualified Retirement Plans”, West Services, Inc. 2007-2014 editions

BNA Tax Management Portfolio: “ERISA-Litigation, Procedure, Preemption and Other Title I Issues”, 2013

Quick Reference to HIPAA Compliance, Aspen Publishers, 2013-2014 edition

Quick Reference to HIPAA Compliance, Aspen Publishers, 2012-2013 edition

Health Care Reform Tool Kit, editor, WorldatWork.org, 2012

The ERISA Fiduciary Compliance Guide, The National Underwriter Company, 2012

BNA Tax Management Portfolio: “ERISA-Litigation, Procedure, Preemption and Other Title I Issues”, 2005 and 2012 editions

Quick Reference to HIPAA Compliance, Aspen Publishers, 2011-2012 edition

Quick Reference to HIPAA Compliance, Aspen Publishers, 2010-2011 edition

BNA Tax Management Portfolio: “EPCRS - Plan Correction and Disqualification”, 2010

Quick Reference to HIPAA Compliance, Aspen Publishers, 2004-2010 editions

Bender’s Federal Income Taxation of Retirement Plans, (Chapter 1: Introduction to Retirement Legislation and Guide to Application: From ERISA to Pension Protection Act) and (Chapter 11: Controlled Groups and Affiliated Service Groups) 2008 edition

BNA Tax Management Portfolio: “EPCRS – Plan Correction and Disqualification”, 2004 and 2009 editions

BNA Tax Management Portfolio: “Plan Disqualification and ERISA Litigation” (1993); update 1999

Labor and Employment Law: Compliance and Litigation, Contributor for ERISA/employee benefits chapters, Clark, Boardman, Callaghan, 1997

Courses Taught

“Controlled Group, Affiliated Service Group, Leased Employee and Independent Contractor Issues,” Continuing Professional Education for Internal Revenue Service Employee Plans Audit Agents, Northeast Division of Internal Revenue Service (2005)

“Federal Employment Rights,” Guest Lecturer for ERISA Portion of Course, Massachusetts School of Law, Fall 2001

“Pension Law,” Bentley College, fall 1999 and Fall 2000

Commendation/ Honors

Fellow, Litigation Counsel of America, The Trial Lawyer Honorary Society 2021

“2021 Best Lawyers “Women in Law” for Employee Benefits (ERISA) Law”, Best Lawyers Business Edition, Spring 2021

New England’s Top Rated Lawyers, The National Law Journal, July/August 2021

Top Women Attorneys in Massachusetts, Boston Magazine, April 2021

American Lawyer & National Law Journal Magazines 2021 Woman Leader in the Law

Best Lawyers in New England 2021

Top Attorneys in Massachusetts, Boston Magazine, 2020

Best Lawyers in America for Employee Benefits (ERISA) Law 1999-2022

Super Lawyers 2005-2021 (Massachusetts, New England)

Inducted by Massachusetts Lawyers Weekly in Top Women of Law Circle of Excellence 2019

Top 50: Women Massachusetts Super Lawyers List: 2019, 2015, 2014, 2010, 2009, 2008, 2007, 2006

Top 100: Massachusetts Super Lawyers List: 2008

Top 100: New England Super Lawyers List: 2008

Top 50: Women New England Super Lawyers List: 2019, 2009, 2008, 2007

Top Rated Lawyer by New England's Legal Leaders Magazine, 2013 – 2016

100 Most Influential People in The 401(k) Industry for 2015, 2014, 2013, 2012, 2011, 2010, 2009 401(k) Wire (Ms. Wagner is No. 15, 21, 21, 27, 40, 76, and 73, respectively)

Top Women of Law, Massachusetts Lawyers Weekly, 2011

“Top ERISA Attorney”, Fiduciary News, June 2011

Top 25 attorneys in the inaugural issue of Boston Business Journal's Who's Who of Attorneys in New England, 2011

Commissioner's Award, IRS Tax Exempt & Government Entities Division, 2010

Boston's Best Lawyers, The Boston Globe and Boston.com, 2010

Top 50 Female Attorneys in Massachusetts and New England, Law and Politics Magazine, 2009 and 2010

Top 10 Corporate Lawyers, Boston Women's Business Journal and The Boston Herald, January 2009

Who's Who Among Executive and Professional Women – Honors Edition, Representing Boston, MA, Biltmore Who's Who, January 2007

International Biographical Centre Lifetime Achievement Award, International Biographical Centre, Cambridge, England January 2007

A Great Mind of the 21st Century: ERISA/Employee Benefits, American Biographical Institute, October 2006

Best Lawyers: Employee Benefits, Corporate Counsel, October 2006

Who's Who Among Executive and Professional Women – Honors Edition, Representing Boston, MA, Empire Who's Who, July 2005

Who's Who Among Executive and Professional Women – Honors Edition, Manchester's Who's Who, July 2005

AV Peer Review Rating, Very High to Preeminent Legal Ability and Integrity, LexisNexis Martindale-Hubbell, June 2005 – present

Delegate, Harvard Law School, 2003 – present

New England Employee Benefits Council Best Practices Award, 2002

Distinguished Author, presented by Bureau of National Affairs, Tax Management, Inc., 1994

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**Seminars and
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“Cybersecurity Guidance from DOL” (Marcia presented virtually)
Webinar for HUB International, October 20, 2021

“Tidbits for Employment Lawyers”, (Marcia presented virtually) NELA/NY
Fall Virtual Conference on Representing Employees, October 1, 2021

“Institutional Investor’s Retirement Plan Advisors Summit”, (Marcia
presented virtually) September 23, 2021

“2021 Fiduciary Excellence Forum”, (Marcia participated virtually and was
on a panel with other individuals) March 24, 2021

“Qualified Domestic Relations Orders”, Massachusetts Continuing Legal
Education (MCLE) Seminar: Pensions & QDROs, December 9, 2020
(Boston, MA)

“COBRA Notice Litigation”, ACI’s 18th Annual ERISA Litigation
Conference, November 19, 2020 (New York, New York)

“Anti-Assignment”, American Conference Institute (ACI) ERISA Litigation Conference, November 22, 2019 (New York, NY)

“ERISA Litigation Affecting Defined Benefit Plans”, 2019 Annual Enrolled Actuaries Meeting, April 7 - 10, 2019 (Washington, D.C.)

“Legislative and Regulatory Update – Find Out What You Don't Know?”, Pensions & Investments Conference, April 4, 2019 (Dallas, Texas)

“Do You Know What You Don't Know?”, Pension & Investments DC Investment Lineup, April 4, 2019 (Dallas, Texas)

“IRS Audits of Employee Benefit Plans: Audit CAP”, Strafford CLE Webinar, November 14, 2018

“The Future of the Retirement Industry”, Webinar, September 7, 2018

“Common Audit Issues and What Do Benefits Professionals Need to Know About Tax Reform?”, ASPPA Benefits Council (ABC) of New England, September 6, 2018 (Waltham, MA)

“Benefits Legislation – Existing and Proposed”, Millennium Partners Client Appreciation Event, August 23, 2018 (Newport, Rhode Island)

“Top Ten Retirement Plan Administration Mistakes? What They Are, Why They Happen & How To Fix Them!”, Podcast for [401\(k\)fridays.com](http://401(k)fridays.com), June 2018

“What Do Benefits Professionals Need to Know About Tax Reform?”, 2018 BPAS Partner Conference, June 13, 2018 (Philadelphia, Pennsylvania)

“Common Audit Issues”, Society of Financial Services Professionals of New York City Chapter Lunch & Learn Event, May 23, 2018 (New York, NY)

Raymond James Retirement Plan Advisory Council Meeting, January 19, 2018 (St. Petersburg, Florida)

“ERISA Considerations for Employment Attorneys”, MCLE: 20th Annual Employment Law Conference 2017, December 8, 2018 (Boston, MA)

“Legal Issues and Improvement Opportunities in Retirement Plans”, Webinar for SNL Knowledge Center, a Division of S&P Global Market Intelligence, October 31, 2017

“Washington Update”, Co-Speaker at the 2017 PLANADVISER National Conference, October 11-13, 2017 (Orlando, Florida)

“DOL Fiduciary Rule: Impact on Retirement Plan Sponsors, Plan Advisers and Service Providers”, Webinar for Strafford, September 28, 2017

“IA Watch’s “Commitment to Compliance” Conference”, September 18, 2017 (Boston, MA)

“The Impact of the New Fiduciary Rule”, Webinar for Retirement Experts Network, August 08, 2017

“ERISA Revenue Sharing Arrangements: Avoiding Plan Asset Status, Complying With Due Diligence Requirements,” Webinar for Stafford Live CLE Webinars, July 18, 2017

“Boston Business Women’s 2017 BE BOLD Conference”, The Wagner Law Group, sponsor, and Marcia S. Wagner, speaker, May 17, 2017, (Boston, MA)

“The New Fiduciary Rule: What Do You Need to Know and Do Know?”, Morningstar Institutional Conference, March 9, 2017 (San Antonio, Texas)

“The New Fiduciary Rules: What Do You Need to Know and Do Know?”, Webinar for IMCA International, January 31, 2017

“DOL Fiduciary Rule – “Real Life Impacts to Your Practice”, GRP Advisor Alliance National Conference, January 28, 2017 (Phoenix, AZ)

“Regulation, Legislation and Litigation Concerning the Retirement Plan Industry: The Legal and Political Arena for 2017”, The DCIO Leadership Summit, January 24, 2017 (Boston, Massachusetts)

“The New DOL Fiduciary Rules: What Do You Need to Know and Do Now?”, Webinar for AI Insight, January 12, 2017

“DOL Fiduciary Rule Presentation – 2016 BDC Closed-End Fund and Private Equity Due Diligence Meeting”, sponsored by Snyder Kearney LLC, December 13, 2016, (Miami Beach, FL)

Fiduciary Facebook Live – Marcia Wagner interviewed live on Facebook along with Department of Labor Assistant Secretary Timothy Hauser, sponsored by MarketWatch, December 8, 2016

“CSC SNL 401(k) Webinar”, Webinar for Commerce Street Capital, October 13, 2016

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, 2016 Envestnet Alliance Executive Summit, September 29, 2016 (Charleston, South Carolina)

“IRA Rollovers: Aggregate, Segregate, Document, Communicate, and Education”, Envestnet Retirement Symposium, September 28, 2016 (Chicago, Illinois)

“DOL Landscape: Challenges and Opportunities”, Envestnet Retirement Symposium, September 27, 2016 (Chicago, Illinois)

“The New Fiduciary Rule: What Do You Need to Know and Do Now?”, ADISA 2016 Annual Conference & Trade Show, September 26, 2016 (Las Vegas, Nevada)

“Fiduciary Developments Affecting 403(b) Plans – What Do You Need to Know?”, Webinar for Heffernan Retirement Services, September 23, 2016

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, Vestmark Client Summit, September 23, 2016 (Boston, MA)

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, New Orleans Estate Planning Council Meeting, September 19, 2016 (New Orleans, Louisiana)

“The New DOL Fiduciary Rule and Government Initiatives”, 2016 FPA Fall Annual Conference, September 16, 2016 (Baltimore, Maryland)

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, Think Advisor/The National Underwriter Company Webinar, August 24, 2016

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, Strafford New DOL Fiduciary Rule Webinar, August 23, 2016

“The Household Balance SheetSM View and the New DOL Fiduciary Rule”, RIIA Summer Conference, July 19, 2016 (Salem, MA)

“The Department of Labor’s New Fiduciary Duty Rule: How Your Business Must Change – Beyond the BICE”, July 18, 2016 (New York, NY)

“So You Think You Know the Fiduciary Rule?” LIMRA Virtual Town Hall Webinar, July 12, 2016

“Survival – With Marcia Wagner of The Wagner Law Group”, Podcast for LeftFoot, June 23, 2016

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, Webinar for BayState Financial, May 31, 2016

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, Webinar for MoneyGuidePro, May 25, 2016

“The New Fiduciary Rules: What Do You Need To Know?”, Webinar for Association of Corporate Counsel, May 25, 2016

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, 2016 PIE Symposium, May 12, 2016 (Charleston, South Carolina)

“The New Fiduciary Rules: What Do TPAs Need to Know and Do Now?”, Webinar for National Institute of Pension Administrators (NIPA), May 10, 2016

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, Webinar for Principal, May 4, 2016

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, 2016 LIMRA LOMA Secure Retirement Institute DOL Fiduciary Rule Symposium, May 3, 2016 (Boston, MA)

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, Webinar, April 20, 2016

“The New Fiduciary Rules: What Do You Need to Know and Do Now?”, Webinar with Kevin Knull, CFP, MoneyGuide Pro, April 19, 2016

Spoke at Conference of Consulting Actuaries, April 12, 2016 (Washington, DC)

“The Fiduciary Rule: What Are the Practical Implications, What Should You Have Done Yesterday and What Should You Do Now?”, Webinar with Kevin Knull, CFP, MoneyGuide Pro, March 24, 2016

“Your ERISA Attorney Isn’t Going Anywhere Anytime Soon”, Pensions & Investments 2016 East Coast Defined Contribution Conference, March 8, 2016 (Miami, Florida)

“Washington Update: New DOL and Governmental Initiatives”, AXA 401(k) Producer Summit, March 7, 2016 (Santa Monica, California)

“Avoiding A Fiduciary Trap in Your Call Center”, Webinar, February 25, 2016

“Washington Update: New DOL and Governmental Initiatives”, DCIO Best Practices Summit (Financial Research Associates), January 28, 2016 (Boston, Massachusetts)

“How Will Washington DC Affect Your Plans? A Regulatory Update From the Hill”, Northern Trust - Boston DC Investor Event, January 27, 2016 (Boston, Massachusetts)

“Washington Update: New DOL and Governmental Initiatives”, 2016 AXA Western Pension Conference, January 26, 2016 (Las Vegas, Nevada)

“Washington Update: New DOL and Governmental Initiatives”, Financial Planning Association of Central Florida Symposium, January 25, 2016 (Lake Mary, Florida)

“401(k) Plan Nondiscrimination Testing: Guidance for Employee Benefits Counsel”, ERISA Webinar for Strafford Publications, Inc., January 13, 2016

“Washington Update: New DOL and Governmental Initiatives” WisdomTree Asset Management Meeting, January 5, 2016 (Miami, Florida)

“Washington Update: New DOL and Governmental Initiatives”, The MarketCounsel Summit 2015, December 9, 2015 (Miami, Florida)

“Pension Benefits Considerations for Multinational Companies: Cross-Border Issues in the Global Economy”, 2015 HLB North American Tax Conference and U.S Audit Group Meeting, December 4, 2015 (Coral Gables, Florida)

“Washington Update: New DOL and Governmental Initiatives”, 401(k) Coach Big Idea Focus Group, December 3, 2015 (New Orleans, Louisiana)

“Thinking Outside The Box: Is It Dangerous For You & Your Plan?”, Defined Contribution Summit, November 17, 2015 (New York, New York)

“(Almost) Everything You Need to Know About PEOs”, 2015 ASPPA Annual Conference, October 20, 2015 (National Harbor, Maryland)

“DOL’s Fiduciary Rule & Rollovers”, 2015 PlanAdviser National Conference, September 29, 2015 (Orlando, Florida)

“Washington Update: New DOL and Governmental Initiatives”, National Association for Financial Planners Conference, September 28, 2015 (Boston, Massachusetts)

“Newly Proposed DOL Fiduciary Rule: Moving to a Universal Fiduciary Standard”, Webinar for 401(k) Coach, August 25, 2015

“Newly Proposed DOL Fiduciary Rule: Moving to a Universal Fiduciary Standard”, Center for Retirement Research at Boston College, July 27, 2015 (Boston, Massachusetts)

“Newly Proposed DOL Fiduciary Rule: Moving to a Universal Fiduciary Standard”, LPL Financial Focus 2015 Conference, July, 26, 2015 (Boston, Massachusetts)

“Real Success – In Business and Life”, “My Experience Starting A Business in the Retirement Plan Industry” and “Presentation to ASPPA Women

Business Leaders Forum”, ASPPA Women Business Leaders Forum, June 8, 2015 (Charleston, South Carolina)

“Talking Points”, Plan Sponsor National Conference, June 2, 2015 (Chicago, Illinois)

“Customized Models for 3(16) Fiduciaries”, 2015 TPA Partners Conference, May 13, 2015 (Tucson, Arizona)

“Newly Proposed DOL Fiduciary Rule: Webinar for Moving to a Universal Fiduciary Standard”, ERISA & Investment Management Law, April 29, 2015

“ERISA Revenue Sharing Arrangements: Avoiding Plan Asset Status, Complying With Due Diligence Requirements”, Webinar for Stafford Publications, Inc., March 11, 2015

“Clouds on the Horizon as ERISA Turns 40”, BNA/Bloomberg Tax Advisory Meeting, November 20, 2014 (Washington, DC)

“Important Pension Changes – Washington & Regulatory Update”, Charles Schwab Impact 2014 Conference, November 5, 2014 (Denver, Colorado)

“ERISA Compliance & Errors: Top Ten Mistakes from an Auditor/CPA Perspective”, 2014 CFDD Conference, October 17, 2014 (San Antonio, Texas)

“Transformation of Active Management in DC Plans New Active Investment Solutions”, 2014 CFDD Conference, October 16, 2014 (San Antonio, Texas)

“Participant Advice & The Brokerage Window”, 2014 CFDD Conference, October 16, 2014 (San Antonio, Texas)

“State & Federal Threats to the Private Retirement System”, 2014 CFDD Conference, October 16, 2014 (San Antonio, Texas)

“HSAs & Retirement Plan Advisors: A Legal, Fiduciary & Best Practices Perspective”, 2014 CFDD Conference, October 14, 2014 (San Antonio, Texas)

“ERISA Landscape - Plan Sponsor Issues Caring for Participants”, Envestnet Retirement Symposium, September 24, 2014 (Chicago, IL)

“Recent ERISA Litigation and Related Title I Issues”, Webinar for Bloomberg BNA, August 26, 2014

“Enhanced Service Opportunities Related to ERISA Plans”, HA&W Wealth Management LLC, August 5, 2014 (Atlanta, Georgia)

“Critical Pension Changes from D.C. – What Do You Need to Know?”,

Retirement Alliance Annual Summit, July 16, 2014 (Meredith, New Hampshire)

“Critical Pension Changes from D.C. – What Do You Need to Know?”, Janney Montgomery Retirement Meeting, June 26, 2014 (Baltimore, Maryland)

“Critical Pension Changes from D.C. – What Do You Need to Know”, Presentations for John Hancock Financial Services, June 16, 2014 (Salt Lake City, Utah)

“Retirement Plan Game Changers: What Advisors Need To Know”, Commonwealth Retirement Symposium, June 3, 2014 (Boston, MA)

“ERISA Compliance and Errors – Top Ten Mistakes”, CTCPA Employee Benefit Plans Conference, May 20, 2014 (Rocky Hill, Connecticut)

“Critical Pension Changes from D.C. – What Do You Need to Know?”, Strategic Pension Services, LLC Advanced Advisor Symposium, May 8, 2014 (Poughkeepsie, New York)

“What the Next Few Years Hold for 401(k) Plans and Retirement Savings and What It Means for Advisors and Their Clients”, ICMA’s 2014 Annual Conference, May 5, 2014 (Boston, MA)

Workshop 1: “Longevity Planning in Retirement Plans”;
“General Session 2: Legal Panel” (panel discussion), 2014 NAPA 401(k) SummitNew, March 23, 2014, (New Orleans, Louisiana)

“The Do’s, Don’ts and Best Practices for 3(16), 3(21) and 3(38) Fiduciaries”, Webinar - Part 2-3(16), 3(21) and 3(38) for TransAmerica Retirement Solutions, March 18, 2014

“ERISA Revenue-Sharing Arrangements: Due Diligence Process and Alternative Pricing Models”, Webinar for Strafford Publications, Inc., March 11, 2014

“ERISA Compliance and Errors – Top Ten Mistakes”, 2013 AICPA Employee Benefit Plans Accounting, December 12, 2013 (Washington DC)

“Advantages of Micro Defined Benefit Plans”, Webinar for Dedicated Defined Benefit Services, November 15, 2013

“Important Pension Changes from D.C. – Regulatory Update”, Presentation for Retirement Plan Administrators, LLC, November 14, 2013 (Atlanta, Georgia)

“Legislative Update: Year-End Review of Legal Changes Affecting Benefits Plans”, Presentation for Legislative Update for Worldwide Employee Benefits, November 14, 2013 (Atlanta, Georgia)

“Delivering Value in a Target-Date Dominated World”, Webinar for PLANADVISER/Blackrock, November 13, 2013

“Important Pension Changes from D.C. – What Do You Need To Know?”, Speaking Engagements for John Hancock Retirement Services (Sponsored by Legg Mason), November 13, 2013 (Boston, MA, Providence, RI and Newton, MA)

“Important Pension Changes from D.C. – What Do You Need To Know?”, Speaking event for John Hancock Financial Services, October 15, 2013 (Charlotte, North Carolina)

“The Politics of Retirement – A Washington Update”, Speaking event for Eaton Vance, October 10, 2013 (San Diego and Irvine, California)

“How Washington’s Policy Initiatives Could Impact The Retirement Plans Industry” and “Custom Solutions: Legal, Compliance and Disclosure”, 2013 CFDD Conference, October 7, 2013 (San Antonio, Texas)

“What Trustees In Bankruptcy Need To Know About Pension Plans”, Webinar for PenChecks 2013 Expert Series, September 18, 2013

“Tax and Benefit Reform Proposals”, PlanAdviser National Conference 2013, September 9, 2013 (Orlando, Florida)

“The Politics of Retirement – A Washington Update”, Sii Investments National Sales Conference Friday, August 16, 2013 (Las Vegas, Nevada)

“ERISA Law Update”, Retirement Alliance, Inc. 2013 Advisor Summit, July 22, 2013 (Meredith, NH)

“Complying With PPACA”, Webinar, June 25, 2013

The New England Broker Dealer/Investment Adviser Association, Inc. (NEBDIAA) Panel Discussion, June 20, 2013 (Boston, MA)

“The Different Roles and Responsibilities of 3(16), 3(21) and 3(38) Fiduciaries”, Webinar for Transamerica Speakers Bureau, June 18, 2013

“The Changing DC Landscape: How Regulation Is Changing The Face Of The DC Plan”, Inside Indexing Second Annual Conference 2013, June 17, 2013 (Boston, MA)

“A Plan Sponsor’s Fiduciary Calling: Improving the Retirement Readiness of Plan Participants”, Webinar for LPL Financial, June 4, 2013

“Promoting and Evaluating The Success of Your Plan”, Webinar for Legg Mason, May 30, 2013

“Important Pension Changes from D.C. – What Do You Need To Know?”, Speaking Event for The Robertson Group, May 29, 2013 (Columbus and Dublin, Ohio)

“Important Pension Changes from D.C. – What Do You Need To Know?”, Power Speaking Events for John Hancock Financial Network, May 28, 2013 (Troy & Bloomfield Hills, Michigan)

“Complying with PPACA”, Webinar for SourceMedia, May 22, 2013

Black Rock DC Leaders Circle, May 20, 2013 (New York, New York)

“Target Date Funds and Plan Sponsor Responsibilities”, Webinar for ByAllAccounts, May 16, 2013

Black Rock DC Leaders Circle, May 9, 2013 (San Francisco, California)

“The Politics of Retirement – A Washington Update”, Precept Advisory Group, LLC, May 8, 2013 (Santa Clara, California)

“Target Date Funds and Plan Sponsor Responsibilities”, Seminar for New England Employee Benefits Council, April 26, 2013 (Waltham, MA)

“Lifetime Income – Prudent Production Selection and Monitoring for Strong Outcomes”, TIAA-CREF Client Forum 2013, April 24, 2013 (Marco Island, Florida)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Financial Network, April 18, 2013 (Indianapolis, Indiana and Cincinnati, Ohio)

“Transferring the Margins on Retirement Plan Investments”, Webinar for BPAS, April 9, 2013

“What do Corporate Counsel Need to Know about ERISA/Employee Benefits Matters?”, Harvard Law School Association of Massachusetts and In-House Counsel Network, Harvard Law School, April 5, 2013 (Cambridge, MA)

“Best Practices for Producing and Managing Rollover Business – The Fiduciary Advisor’s Rollover Toolkit”, Webinar for 401(k) Coach Program, March 27, 2013

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Financial Network, March 20-21, 2013 (Chicago, Illinois)

“How Can You Accept Rollover Business From A 401(k) Plan” and “Legal Eagles”, NAPA/ASPPA 401(k) Summit, March 4, 2013 (Las Vegas, Nevada)

“The Evolving ERISA Fiduciary Standard – What Do You Need To Know?”, Webinar for ByAllAccounts, February 28, 2013

“Default Investments – Target Date Funds”, Financial Research Associates, LLC 7th Annual Target-Date Funds Forum, February 26, 2013 (Boston, MA)

“Getting Ready for Fee Disclosures, DOL Audits and Other ERISA Issues”, Workplace Benefits Renaissance Conference, February 12, 2013 (Atlantic City, New Jersey)

“Practitioner Viewpoint: Turning the Tables – Practitioner Issues for DOL Consideration”, Joint Meeting of the IRS TE/GE Councils, February 7, 2013 (Baltimore, Maryland)

“Important Pension Changes from D.C. – What Do You Need To Know?” and “The Politics of Retirement – A Washington Update”, Two Presentations at UBS Fiduciary Forum, February 1, 2013 (Atlanta, GA)

“The Politics of Retirement – A Washington Update”, Webinar for Eaton Vance, January 31, 2013

“Overview of ERISA” A Perspective on 401(k) Issues and Pitfalls for 2013”, Webinar for One Capital Management, January 30, 2013

“The Politics of Retirement – A Washington Update”, Financial Research Associates 6th Annual Profit-Driven Strategies in the DCIO Market, January 28, 2013 (Boston, MA)

“Retirement Plans – Current Developments & Common Myths”, ASPPA Benefits Council New England, November 15, 2012 (Nashua, NH)

“Qualified Domestic Relations Orders”, MCLE Program - Employment Compensation in Divorce Cases, November 12, 2012

“The Politics of Retirement – A Washington Update”, Presentation for Eaton Vance, November 6, 2012 (Westlake, TX)

“The Politics of Retirement – A Washington Update”, CFDD 2012 Advisor Conference, October 24, 2012 (Chicago, IL)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Mixer Meetings, October 11, 2012 (Denver, CO)

“Round Table Discussion with Q&A”, BlackRock DC Masters Circle, October 10, 2012 (New York, NY)

“The Fiduciary Adviser's Rollover Toolkit”, Webinar for 401(k) Coach, October 9, 2012

“The Politics of Retirement – A Washington Update”, Presentations for Eaton Vance, October 4, 2012 (San Jose and San Francisco, CA)

“The Politics of Retirement – A Washington Update”, Presentations for Eaton Vance, October 3, 2012 (Denver, CO)

“Important Pension Changes from D.C. – What Do You Need To Know?”, National Pension Consultants Study Group, September 28, 2012 (Charlestown, MA)

“Important Pension Changes from DC – What Do You Need To Know?”, EANE Compensation & Benefits Conference, September 12, 2012 (Sturbridge, MA)

“The Politics of Retirement – A Washington Update”, 2012 PLANADVISER National Conference, September 10, 2012 (Orlando, FL)

“The Politics of Retirement – A Washington Update”, Presentations for Eaton Vance, August 28 and 29, 2012 (Atlanta, Georgia)

“The Politics of Retirement – A Washington Update”, 2012 Raymond James Advanced Retirement Plan Symposium, August 16, 2012 (Boston, MA)

“The Politics of Retirement – A Washington Update”, 2012 Retirement Alliance Advisor Summit, July 25, 2012 (Meredith, NH)

“Analyzing Emerging Fiduciary Law and Anticipating Its Impact on Investment Strategy”, 2012 U.S. Pensions Summit, July 24, 2012 (Chicago, IL)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Mixer Meetings, July 17, 2012 (Columbus, OH and Dayton, OH)

“Fee Disclosure”, Webinar for Employers Association of the NorthEast, July 13, 2012

“The Politics of Retirement – A Washington Update”, The Politics of Retirement, June 19, 2012 (Boston, MA)

“Guidance on Deferred Compensation: IRC 409A and IRC 457”, Massachusetts Continuing Legal Education (MCLE) Seminar ~ Executive Compensation Law, June 19, 2012 (Boston, MA)

“The Politics of Retirement – A Washington Update”, UBS Defined Contribution Advisor Forum, June 15, 2012 (Boston, MA)

“Important Pension Changes from D.C. – What Do You Need To Know?”, Janney Montgomery Scott, LLP: Advanced 401(k) Seminar, June 7, 2012 (Baltimore, MD)

“408(b)(2) Disclosures – What Do You Need To Know?”, Webinar for Williams Financial Advisor Group, May 30 and 31, 2012

“Important Pension Changes from D.C. – What Do You Need To Know?”, Annual Planning Meeting of The Retirement Advisor Council, May 24, 2012 (Hartford, CT)

“Pension Plans: Everything You Need To Know, But Were Afraid To Ask”, CEBS Boston Chapter, Retirement Plan Fundamentals Session, May 23, 2012 (Norwood, MA)

“The Politics of Retirement – A Washington Update”, 2012 Chicago Fiduciary Summit, May 16, 2012 (Rosemont, IL)

“Important Pension Changes from D.C. – What Do You Need To Know?”, BlackRock DC Leaders Circle Conference, May 15, 2012 (New York, NY)

“Important Pension Changes from D.C. – What Do You Need To Know?”, BlackRock DC Leaders Circle Conference, May 8, 2012 (San Francisco, CA)

“Integrating ERISA Into Your Compliance Systems”, 2012 NSCP Regional Meeting, May 7, 2012 (New York, NY)

“Important Pension Changes from D.C. – What Do You Need To Know?”, ProEquities National Business Builder’s Conference, May 2, 2012 (Hollywood, FL)

“Moving Beyond 401(k): Developing a Defined Benefit Advisory Practice”, 2012 fi360 Conference, April 26, 2012 (Chicago, IL)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock 2012 Spring Masters Meeting, April 25, 2012 (Chicago, IL)

“Integrating ERISA Into Your Compliance Systems”, 2012 NSCP Regional Meeting, April 2, 2012 (Boston, MA)

“The Politics of Retirement – A Washington Update”, Presented for MassMutual, Sponsored by Eaton Vance, March 28, 2012 (New York, NY, Short Hills, NJ and Wayne, PA)

“The Year of Disclosure: New Retirement Plan Regulations Impacting 401(k) and 403(b) Plans”, New England Employee Benefits Council Seminar, March 9, 2012 (Waltham, MA)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Mixer Meetings, February 8, 2012 (Pittsburgh, PA)

“Important Pension Changes from D.C. – What Do You Need To Know?”, TD AmeriTrade Institutional/2012 National Conference, February 3, 2012 (Orlando, FL)

“New Opportunities in the DCIO Market”, Financial Research Associates, LLC 5th Annual New Opportunities in the DCIO Market, January 23, 2012 (Boston, MA)

“Tackling The DOL’s New Rules in 2012 – What You Need to Know to Stay Ahead”, Webinar for BlackRock and PlanAdviser, December 1, 2011

“Important Pension Changes from D.C. – What Do You Need To Know?”, Broadridge 2011 Annual Regional Meeting Series, November 30, 2011 (Boston, MA)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Mixer Meeting, November 15, 2011 (Memphis, TN)

“Plan Fees and Fiduciary Responsibilities – Preparing for the New Rules”, 1st Global's National Conference 2011, November 14, 2011 (Salt Lake City, UT)

“Navigating the New Realities of 401(k) Participant Education”, Webinar for Legg Mason, October 20, 2011

“Techniques To Help Advisors Consult To The Fastest Growing DC Plan Market”; “Prospecting The 403(b) Market For Companion DB Plan Business”, CFDD 2011 Advisor Conference, October 18, 2011 (Chicago, IL)

“Basics of ERISA”, 2011 NSCP National Meeting, October 17, 2011 (Baltimore, MD)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Mixer Meeting, October 13, 2011 (Walnut Creek, CA)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Mixer Meeting, October 12, 2011 (San Mateo, CA)

“Guidance on Deferred Compensation: IRC 409A and IRC 457”, Toscano & Ardito, CPA, October 11, 2011 (North Andover, MA)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock 2011 Retirement Plan Networking Mixer, September 22, 2011 (West Conshohocken, PA and King of Prussia, PA)

“Washington Update: Fiduciary Definition and Retirement Income”, 2011 PlanAdviser National Conference, September 14, 2011 (Orlando, FL)

“How Women and Diversity Add Value to Your Practice”, Broadridge Women’s Leadership Forum 2011 Matrix “Get Connected” Conference, August 22, 2011 (Keystone, CO)

“Important Pension Changes from D.C. – What Do You Need To Know?”, 2011 Matrix “Get Connected” Conference, August 21, 2011 (Keystone, CO)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Mixer Meeting, August 11, 2011 (Beachwood, OH)

“Important Pension Changes from D.C. – What Do You Need To Know?”, Navigator 401(k) Symposium, on behalf of Clark Capital Management Group, Inc., August 4, 2011 (Philadelphia, PA)

“Overview of ERISA Fiduciary Responsibility and Liability and Best Practices”, Retirement Alliance 2011 Advisor Summit, July 27, 2011 (Meredith, NH)

“Plotting the Points and Staying the Course: Analyzing Emerging Financial Regulations and Anticipating its Impact on Investment Strategy”, U.S. Pensions Summit 2011, July 20, 2011 (Chicago, IL)

“BlackRock 2011 Defined Contribution Survey Results Shifting Focus: From Retirement Savings to Retirement Income”, Webinar for BlackRock, Inc., June 28, 2011

“Washington Update: The Changing Face of 401(k) Plan Regulation”, Webinar for Women in Pensions Network, June 23, 2011

“Guidance on Deferred Compensation: IRC 409A and IRC 457”, Webinar for The 401k Coach Program Year One, Session 3, June 22, 2011

“Important Pension Changes from D.C. – What Do You Need To Know?”, Commonwealth Financial Network Symposium, June 21, 2011 (Boston, MA)

“Important Pension Changes: What Do You Need To Know?”, Janney Montgomery Scott, LLP: Advanced 401(k) Seminar, June 16, 2011 (Baltimore, Maryland)

“Evolving Best Practices for 403(b) Plan Fiduciaries”, Fiduciary Investment Advisors - 2011 Client Conference, June 15, 2011 (Westbrook, Connecticut)

“Overview of ERISA Fiduciary Responsibility and Liability and Best Practices”, Seminar for TD AmeriTrade Trust Company, June 9, 2011 (San Francisco, CA)

“Washington Update: What Do You Need To Know?”, Washington Legal Update for MassMutual, sponsored by Eaton Vance, June 7 and June 8, 2011 (Stamford, CT, New York City, Wayne, Pennsylvania and West Orange, New Jersey)

“Best Practices: Compliance with Retirement Issues”, 2011 NSCP East Coast Regional Meeting, June 6, 2011 (New York, New York)

“Overview of ERISA Fiduciary Responsibility and Liability and Best Practices”, Seminar for TD AmeriTrade Trust Company, June 1, 2011 (Philadelphia, Pennsylvania)

“Guidance on Deferred Compensation: IRC 409A and IRC 457”, 2011 FICPA Employee Benefit Plans Conference, May 26, 2011 (Orlando, Florida)

“Lifetime Income Options”, DC Plan Participants Attitudes and Behavior Panel Discussion for BlackRock, May 18, 2011 (New York, New York)

“Fiduciary Liability Insurance, Bonding, Service Agreements and Warranties”, 2011 fi360 Conference, May 5, 2011 (San Antonio, Texas)

“Important Pension Changes from D.C. - What Do You Need To Know?”, Allianz Retirement Summit, May 3, 2011 (Dallas, Texas)

“Important Pension Changes from D.C. - What Do You Need To Know?”, John Hancock 2011 Retirement Plan Networking Mixer, April 28, 2011 (Cleveland, Ohio)

“Important Pension Changes from D.C. - What Do You Need To Know?”, John Hancock 2011 Retirement Plan Networking Mixer, April 27, 2011 (Indianapolis, Indiana)

“Washington Update: The Changing Face of 401(k) Plan Regulation”, Webinar for Legg Mason, April 26, 2011

“Important Pension Changes from D.C. - What Do You Need To Know?”, Wilmington Trust Partners for Success Conference, April 14, 2011 (Scottsdale, Arizona)

“Important Pension Changes from D.C. - What Do You Need To Know?”, John Hancock Financial Network - 401(k) Masters Program, April 13, 2011 (Boston, MA)

“Significant Department of Labor Regulatory Changes”, Lockton Financial Advisors/Investment Advisors Conference, April 12, 2011 (Dallas, Texas)

“Important Pension Changes from D.C. - What Do You Need To Know?”, LPL April Symposium, April 11, 2011 (Scottsdale, Arizona)

“Important Pension Changes from D.C. - What Do You Need To Know?”, Bank of America Merrill Lynch’s Inaugural Defined Contribution Designated Financial Advisor Event, April 5, 2011 (Orlando, FL)

“Overview of Fiduciary Responsibilities and Best Practices”, Conference for UBS Institutional Consulting, presented by The Vierra Group, March 30, 2011 (Quincy, MA)

“Important Pension Changes from D.C. - What Do You Need To Know?”, 2011 Newport Advisor Conference, March 24, 2011 (Naples, FL)

“ERISA Litigation and Trends Update”, UBS Retirement Roundtable Meeting Western Division, March 22, 2011 (Coronado, CA)

“ERISA Litigation and Trends Update”, UBS Retirement Roundtable Meeting Eastern Division, March 15, 2011 (Naples, Florida)

“Retirement - Laws as They Pertain to the Employer & Worker”, SHRM Employment Law and Legislative Conference, March 14, 2011 (Washington, DC)

“Important Pension Changes from D.C. – What Do You Need To Know?”, John Hancock Retirement Plan Services Networking Mixer, February 22 and 23, 2011 (Kansas City, Missouri and Omaha, Nebraska)

“ERISA for Employment Lawyers”, MCLE Seminar, February 15, 2011 (Boston, Massachusetts)

“What You Need To Know About Healthcare Reform Compliance”, Hospitality Law Conference, February 10, 2011 (Houston, Texas)

“Important Pension Changes from D.C. – What Do You Need To Know?”, Webinar for PIMCO Corporate Executive Board’s Retirement Services, January 31, 2011

“Fee Transparency and Best Practices for Plan Sponsors”, Webinar for Legg Mason, December 14, 2010

“What is New in DC: The Most Critical Items to the Obama Administration”, Webinar for John Hancock Retirement Services’ “Ask the Expert”, December 7, 2010

“What is New in DC: The Most Critical Items to the Obama Administration”, 1st Global Conference, November 15, 2010 (San Antonio, Texas)

“What is New in DC: The Most Critical Items to the Obama Administration”, NRP 2010 Annual Conference, November 6, 2010 (Palm Springs, California)

“Congressional and Regulatory Changes to Target Date Funds”, Webinar for BNA, October 27, 2010

“Pension Plans: Everything You Need To Know, But Were Afraid To Ask”, Greater Boston Chapter of International CEBS Society, October 21, 2010 (Norwood, MA)

“What is New in DC: The Most Critical Items to the Obama Administration”, Webinar for ByAllAccounts, October 19, 2010

“What to Do to Protect Yourself as an Advisor or Plan Sponsor”; “401(k) Industry Update”, iShares 401(k) Experience, October 14 and 15, 2010 (San Francisco, California)

“What is New in DC: The Most Critical Items to the Obama Administration”, John Hancock Mixer Meeting, October 12, 2010 (Houston, Texas)

“What is New in DC: The Most Critical Items to the Obama Administration”, iShares 401(k) Experience, October 8, 2010 (San Francisco, California)

“ERISA Litigation and Trends Update”; “Protection of Plan Fiduciaries Through Insurance, Contractually and With Warranties”; “The March to Socialism: What it Means for the Pension Industry”, CFDD 2010 Advisor Conference, October 6 and 7, 2010 (Chicago, Illinois)

“A Fiduciary Guide for Target Date Funds”, Webinar for Legg Mason, September 28, 2010

“Pension Plans: Everything You Need to Know, But Were Afraid to Ask”, The AAO-HNSF 2010 Annual Meeting and OTO Expo, September 27, 2010 (Boston, Massachusetts)

“What You Need to Know About Health Care Reform Compliance”, National Health Care Reform Conference, September 22, 2010 (Los Angeles, California)

“Keeping Up With DC”, PlanAdviser National Conference”, September 21, 2010 (Orlando, Florida)

“What You Need to Know About Health Care Reform Compliance”,
Webinar for HighRoads, September 16, 2010

“What is New in DC: The Most Critical Items to the Obama
Administration”, Seminar Sponsored by Putnam Investments for National
Retirement Partners, July 29, 2010 (Boston, Massachusetts)

“Interim Final 408(b)(2) Regulations”, Webinar for Putnam Investments,
July 28, 2010

“Health Care Reform Overview”, Webinar for HighRoads, July 21, 2010

“What is New in DC: The Most Critical Items to the Obama
Administration”, 401(k) Coach Program Year 1 Session 3 Webinar, July 14,
2010

“Advisory Committee on Tax Exempt and Government Entities (ACT)”,
ASPPA 2010 Northeast Area Benefits Conference, July 13, 2010 (New
York, New York)

“Advisory Committee on Tax Exempt and Government Entities (ACT)”,
ASPPA 2010 Northeast Area Benefits Conference, July 12, 2010 (Boston,
Massachusetts)

“The Top 5 ‘Hot Fiduciary Topics’ Every Financial Advisor Needs to
Know”, Webinar Sponsored by iShares in 401(k), June 22, 2010

“What’s Up in Washington, Effects on You and Your Clients”, Webinar for
the Women in Pensions Network, June 17, 2010

“Presentation Regarding Report of Employee Benefits Subcommittee of
Advisory Committee on Tax Exempt and Government Entities”, 23rd
Annual Cincinnati Employee Benefits Conference, June 11, 2010
(Cincinnati, Ohio)

“Analysis and Recommendations Regarding the IRS’s Determination Letter
Program”, IRS Advisory Committee on Tax Exempt and Government
Entities, June 9, 2010 (IRS National Office, Washington, DC)

“Benchmarking Services: A Potential Solution to Every 401(k) Plan
Fiduciary’s Problem”, May 20, 2010, Tax Management Compensation
Planning Advisory Board Meeting (New York, New York)

“What's Up in Washington, Effects on You and Your Clients”, May 19,
2010, John Hancock Sales Acceleration Meeting (Boston, Massachusetts)

“Advisory Committee on Tax Exempt and Government Entities (ACT) -
Analysis and Recommendations of the Employee Benefits Subcommittee
Regarding the IRS's Determination Letter Program”, May 18, 2010, Marcia

made this presentation on behalf of the Internal Revenue Service at the Employee Plans Rulings and Agreements Continuing Professional Education Conference (Indianapolis, Indiana)

“What's Up in Washington, Effects on You and Your Clients”, May 6, 2010, John Hancock Educational and Networking Mixer (Seattle, Washington)

“What's Up in Washington, Effects on You and Your Clients”, May 5, 2010, John Hancock Educational and Networking Mixer (Portland, Oregon)

“What's Up in Washington, Effects on You and Your Clients”, April 29, 2010, John Hancock Scaling New Heights Meeting (Chicago, Illinois)

“Benchmarking Services - A Potential Solutions to Every 401(k) Plan Fiduciary's Problem”, April 29, 2010, National Retirement Partners (NRP) 401(k) Plan Benchmarking Webinar

“Best Practices Evolving From ERISA Litigation”, April 26, 2010, Oppenheimer Funds, Inc. Retirement Plan Strategic Partner Conference (New York, New York)

“New Form 5500 Requirements, and Benchmarking Your Retirement Plan- What Every Plan Sponsor Needs to Know”, April 21, 2010, ING Mid-Market Due Diligence Symposium (Tucson, Arizona)

“Recent Development for 401(k) Plans and Plan Participants: Target Date Funds, DC Plan Annuitization and Financial Literacy”, April 16, 2010, New England Employee Benefit's Council Strategic Connection Series “Helping Retirement Plan Participants Reach Their Goals” (Waltham, Massachusetts)

“New 5500 Form Requirements What Every Plan Sponsor Needs to Know”, April 9, 2010, Cafaro Greenleaf Webinar (Boston, Massachusetts)

“Avoiding Conflicts of Interest as You Grow Your Business: Cross-Selling Practices and Conflicts Under ERISA”, April 6, 2010, ASPPA Benefits Council of New England (Waltham, Massachusetts)

“Taxation of Deferred Compensation: Overview of 409A, 457(b) and 457(f)”, February 3, 2010, MCLE Seminar: Executive Compensation Law, (Boston, Massachusetts)

“ERISA Litigation Matters and Evolving Best Practices”, January 21, 2010, Raymond James Financial, Inc. – 2010 Retirement Plan Advisory Council (St. Petersburg, Florida)

“ERISA Litigation Matters and Evolving Best Practices”, January 15, 2010, LPL Financial Symposium (San Diego, California)

“Talking Points Podcast Regarding Caterpillar Litigation: Interview with Marcia Wagner”, December 11, 2009, PlanSponsor.com

“Retirement Plans: Legislative, Regulatory, Judicial Developments”, December 4, 2009, Financial Telesis, Inc. Webinar

“Podcast: A Primer on Fiduciary Liability Insurance and Bonding”, November 23, 2009, The 401(k) Coach

“ERISA Litigation Matters and Evolving Best Practices”, October 29, 2009, LPL/Legg Mason Retirement Summit (New York, New York)

“ERISA Litigation Matters and Evolving Best Practices”, October 21, 2009, The 401(k) Coach Program Webcast

“ERISA Litigation Matters and Evolving Best Practices”, John Hancock Retirement Services Event at the New York Stock Exchange, October 20, 2009 (New York, New York)

“Standard Terminations: Process and Timelines”; “ERISA Litigation Matters and Evolving Best Practices”, October 5, 2009, CFDD Advisor Conference (Scottsdale, Arizona)

“ERISA Litigation Matters and Evolving Best Practices”, October 2, 2009, IMCA 2009 Fall Professional Development Conference (Atlanta, Georgia)

“Keeping Up With the DOL 401(k) Fee Disclosure, Litigation, Evolving Best Practices”, September 25, 2009, Planadviser National Conference (Orlando, Florida)

“ERISA Litigation Matters and Evolving Best Practices”, August 17, 2009, The 401(k) Coach Master Program (Tabernash, Colorado)

“ERISA Litigation Matters and Evolving Best Practices”, July 24, 2009, 1st Global 2009 Qualified Retirement Plan Summit (Dallas, TX)

“ERISA Litigation Matters and Evolving Best Practices”, May 27, 2009, The 401(k) Coach Program Webcast

“Final Regulations Under Section 403(b) of the Internal Revenue Code”, May 19, 2009, 403(b) Plan Seminar Presented by SageView Advisory Group, The Wagner Law Group and McGladrey & Pullen, LLP (Burlington, MA)

“ERISA Litigation Matters and Evolving Best Practices”, May 18, 2009, ING Advisor/401(k) Coach Bootcamp (Foxboro, MA)

“Ramifications of the Current Economic and Market Turmoil on Asset Allocation: Is it Now Time for Managed Accounts?”; “ERISA Litigation Matters and Evolving Best Practices”; Participant Level Advice: Current

Legal and Regulatory Environment”, May 6-8, 2009, fi360 National Conference (Scottsdale, AZ)

“ERISA Litigation Matters and Evolving Best Practices”, March 26, 2009, Newport Advisor Conference (Orlando, Florida)

“ERISA Fiduciaries and 401(k) Fee Litigation”, March 23, 2009, The ASPPA 401(k) Summit (San Diego, California)

“ERISA Litigation Matters and Evolving Best Practices”, March 12, 2009, John Hancock Retirement Plan Services (King of Prussia, Pennsylvania)

“ERISA Litigation Matters and Evolving Best Practices”, March 11, 2009, John Hancock Retirement Plan Services (Pittsburgh, Pennsylvania)

“ERISA Litigation Matters and Evolving Best Practices”, March 10, 2009, John Hancock Retirement Plan Services (Downers Grove, Illinois)

“ERISA Fiduciaries, 401(k) Fee Litigation, Rollover Matters and Other Litigation”, January 16, 2009, 2009 Raymond James Institute of Finance Advanced Retirement Institute Retirement Plan Advisory Council (St. Petersburg, Florida)

“Best Practices for Operation and Oversight of Pensions and Employee Benefit Plans”, January 15, 2009, Annual Massachusetts Society of Certified Public Accountants Nonprofit Conference (Framingham, MA)

“ERISA Section 408(b)(2) Fee Disclosures: Impact on Broker-Dealers”, December 19, 2008, John Hancock Financial Services (Boston, MA)

“ERISA Fiduciaries, 401(k) Fee Litigation and Other Significant ERISA Cases”, October 30, 2008, MA CPA Forum Meeting (Braintree, MA)

“DB Investment Summit Washington Update Panel Discussion”, October 29, 2008, PlanSponors 3rd Annual DB Investment Summit (Ryebrook, NY)

“IRS Getting Involved with Governmental Plans”, October 14, 2008, NPCERS 2008 Public Safety Employees Pension & Benefits Conference (Palm Springs, CA)

“ERISA Section 408(b)(2) Fee Disclosures: Impact on Broker Dealers”; “ERISA Fiduciaries: 401(k) Fee Litigation, Rollover Matters and Other Litigation”, October 13, 2008, CFDD 2008 Advisor Conference (Scottsdale, AZ)

“ERISA Fiduciaries, 401(k) Fee Litigation, Rollover Matters and Other Litigation”, October 7, 2008, Presentation for MassMutual (Springfield, MA)

“The Entrepreneurial Leader: Launching Your Own Law Firm”, September 20, 2008, The Women’s Leadership Summit, Harvard Law School Alumni Relations (Cambridge, MA)

“ERISA Fiduciaries, 401(k) Fee Litigation, and Other Significant ERISA Cases”, September 17, 2008, Planadvisers Second Annual National Conference (Orlando, FL)

“ERISA Section 408(b)(2) Fee Disclosures: Impact on Broker-Dealers”, August 14, 2008, The 6th Annual Retirement Alliance Sales Summit (Meredith, NH)

“ERISA Litigation: The Evolving Landscape and the Fiduciary Quagmire”, July 23, 2008, MCLE Conference Center (Boston, MA)

“The Top 5 ERISA Issues For 2008”, June 16 and 17, 2008, Putnam Conference 401(k) Golden Scale Council (Boston, MA)

“Current Issues Under Title I of ERISA”, June 12 and 13, 2008, 2008 Northeast Area Benefits Conference (Boston, MA and New York, NY)

“Retirement Planning Programs: The Essential Elements”, June 6, 2008, New England Employee Benefits Council (Waltham, MA)

“ERISA Section 408(b)(2) Fee Disclosures: Impact on Broker-Dealers”, May 13, 2008, John Hancock Retirement Plan Services Broker Dealer Executive Roundtable (Boston, MA)

“Who is a Fiduciary”, February 24-27, 2008, The Trust Advisors Forum (Pinehurst, North Carolina)

“Fiduciary Issues in a Changing Legal Landscape”, February 4, 2008, 2008 IMCA New York Consultants Conference (New York, NY)

“Final Regulations Under Section 403(b) of the Internal Revenue Code”, December 14, 2007, National Webcast Seminar

“Criminal Issues Regarding Title I Investment Breaches”, November 15, 2007, BNA Tax Management Portfolio Meeting (Boston, MA)

“Fiduciary Issues in an Evolving Landscape: 401(k) Fees and Best Practices, and a Discussion of Section 409A”, October 24, 2007, Wachovia Retirement Services’ Advisory Council Meeting (Miami, Florida)

“Fiduciary Liability Insurance, Bonding, and Service Agreements for Sponsors”; “Evaluation of Plan Advisors by Plan Sponsors”; “Fiduciary Issues & Status in Ever Changing Legal Landscape: Things You Need to Know”, September 30 – October 3, 2007, CFDD Advisor Conference (Scottsdale, Arizona)

“Final Regulations Under Section 403(b) of the Internal Revenue Code”, September 20, 2007, SageView Advisory Group (Boston, MA)

“401(k) Fees-Litigation and Best Practices; Disclosure to Plan Participants”, September 11, 2007, Pension Group East (New York, NY)

“Staying Ahead of the Curve: Fiduciary Issues, 401(k) Fees and Practices, and New 403(b) Regulations”, September 6, 2007, Advantage 2007 Schwab Plan Administrator Services National Conference (San Francisco, CA)

“Nonqualified Deferred Compensation: IRS Requires Action in 2007”, July 2007, Benefits Group Worldwide Associates Teleconference

“Things Your Consultant Might be Reluctant to Discuss”, June 2007, Putnam Investments (Boston, MA)

“Massachusetts Health Care Reform Act”, June 2007, Yozell Associates (Cambridge, MA)

“Default Investments and Investment Advice Under PPA”, June 2007, IOMA Audio Conference

“Significant Recent Changes in Title I of ERISA and Overview of Massachusetts Health Care Law”, June 2007, IRS/ASPPA Northeast Benefits Conference (Boston, MA and New York, NY)

“Hidden 401(k) Plan Fees and Expenses and Massachusetts Health Care Law”, May 2007, MA CPA South Shore Breakfast Forum Meeting (Braintree, MA)

“Recent ERISA Litigation and Related Matters”, May 2007, ASPPA Litigation and Retirement Programs Session (Tampa, Florida)

“Things Your Consultant Might be Reluctant to Discuss”, May 2007, National Retirement Partners (White Plains, NY)

“Properly Documenting Welfare Plans”, March 30, 2007, North Shore Human Resources Support Group Meeting (North Andover, MA)

“Putting the Pension Protection Act to Work for Your Organization”, February 2007, New England Employee Benefits Council (John Hancock Center, Boston, MA)

“Select Issues Under ERISA: Fiduciary Responsibility, Hidden 401(k) Plan Fees and Highlights of Pension Protection Act of 2006”, October 2006, CMEA, The Employers’ Association (Worcester, MA)

“Highlights of Changes in ERISA Law and Best Practices”, September 2006, Council of Engineering and Scientific Society Executives, Finance & Administration Committee (Woods Hole, MA)

“Health Reimbursement Arrangements, Health Savings Accounts, Section 125 Cafeteria Plans and COBRA”, Lorman Seminar, July 2006, Topics: Overview of HSAs and Health FSAs and HIPAA Privacy and Security (Boston, MA)

“ALI-ABA – Current Pension and Employee Benefits Law and Practice”, July 2006 Topic: What Type of Plan is Preferable for Your Client? (Boston, MA)

“DOL Issues and Initiatives: What You Don’t Know Can Hurt You”, June 2006, Joint Conference Sponsored by Northeast Key District Office of the Internal Revenue Service and American Society of Pension Actuaries (Boston, MA and Tarrytown, NY)

“Select Issues In ERISA and Employee Benefits”, April 2006, MA CPA South Shore Breakfast Forum Meeting (Braintree, MA)

“Employee Benefit Plan Hidden Traps and How to Avoid Them”, January 2006, Teleconference Lorman Seminar (Moderator and Speaker)

“33rd Annual Robert Fuchs Labor Law Conference”, October 2005, DOL Panel on ERISA (Suffolk Law School, Boston, MA)

“ALI-ABA – Understanding Current Pension and Employee Benefits Law and Practice”, August 2005 Topics: Health Savings Account Alternatives, Cafeteria Plans; Rollover and Rollbacks (Boston, MA)

“DOL Issues and Initiatives”, June 2005, Joint Conference Sponsored by Northeast Key District Office of the Internal Revenue Service and American Society of Pension Actuaries (Boston, MA and White Plains, NY)

“Annual Labor Law Update”, May 2005, The Merrimack Valley Chamber of Commerce, Wyndham Hotel (Andover, MA)

“Update: ERISA Recent Changes Affecting Federal Benefits Plans and Executive Compensation Arrangements”, April 2005, Fourth Annual Labor and Employment Law Update, NH Bar (Manchester, NH)

“How to Uncover and Evaluate 401(k) Fees, Expenses and Revenue Sharing Arrangements”, February 2005, New England Employee Benefits Council (Boston, MA)

“How to Be Prepared For and Survive a Department of Labor ERISA Audit” December 2004, Foundation for Fiduciary Studies, Joseph M. Katz School of Business, University of Pittsburgh (Burlington, MA)

“Health Savings Accounts and Health Reimbursement Accounts – Client Seminar”, November 2004, Fred C. Church Insurance Agency (Chelmsford, MA)

“Prudent Practices for Fiduciaries”, October 2004, Wachovia Retirement Services (Boston, MA and New York, New York)

“Roundtable of Current ERISA Issues”, September 2004, Profit Sharing Council of America (New Orleans, LA)

“Fiduciary Updates”, September 2004, Eastern Massachusetts Conference of IMA Chapters

“ALI-ABA – Advanced Law of Pensions, Welfare Plans, and Deferred Compensation”, July 2004 Topics: Selected Issues in Plan Terminations; Selected Issues regarding Contingent Workers (Boston, MA)

“Title I of ERISA – Fiduciary Concerns”, June 2004, Joint Conference Sponsored by Northeast Key District Office of the Internal Revenue Service and American Society of Pension Actuaries (Boston, MA and White Plains, NY)

“Overcoming 401(k) Inertia with Managed Accounts”, March 2004, IOMA (a Division of the Bureau of National Affairs) Audio Conference

“Insider Trading and Market Timing in the Mutual Fund Industry – What is a Fiduciary to Do?”, December 2003, Pension Group East (NY, NY)

“ALI-ABA – Basic Law of Pensions, Welfare Plans and Deferred Compensation”, July 2003, Topics: Participants’ Rights for Administrative Claims Procedures and Implementing the Rollover Rules (Boston, MA)

“DOL and Title I Issues”, June 2003, Joint Conference Sponsored by Northeast Key District Office of the Internal Revenue Service and American Society of Pension Actuaries (Boston, MA and White Plains, NY)

“Fiduciary Responsibilities and Liabilities”, March 2003, Society of Enrolled Actuaries (Washington, D.C.)

“ERISA Issues in Mergers and Acquisitions”, February 2003, William Gallagher Associates (Waltham, MA)

“HIPAA Privacy Rules”, January 2003, Medical Claims Services (Newton, MA)

“ERISA: Pension Plan Development and Administration in Massachusetts”, November 2002, Lorman Education Services (Peabody, MA) (Chairperson)

“Flash Points, Red Flags and Interesting Issues in Maintaining ERISA Plans”, October 2002, Presentation to Biotechnology Industry Organization (Seattle, WA)

“Advising Your Clients Regarding Small Business Retirement Plans”, October 2002, Massachusetts Bar Association (Boston, MA)

“Nuts and Bolts of 401(k) Plans”, July 2002, Lorman Business Center (Melville, NY)

“ALI-ABA – Advanced Law of Pensions, Welfare Plans, and Deferred Compensation”, July 2002 Topics: Statutes of Limitations: Plans and IRAs; Cutbacks (Good and Bad); Who is an Employee? For What Purposes? (Boston, MA)

“Issues Facing Plan Fiduciaries”, June 2002, Joint Conference Sponsored by Northeast Key District Office of the Internal Revenue Service and American Society of Pension Actuaries (Natick, MA and White Plains, NY)

“Legal Perspectives – Advice, Communications and Education”, June 2002, Pension Group East (New York, NY)

“Protecting Employees’ 401(k) Investments – Handling Investment Advice and Blackout Periods”, May 2002, National Institute of Pension Administrators, Inc. (Newton, MA)

“ERISA Issues to be Aware of Pre-IPO”, November 2001, Massachusetts Biotechnology Council (Boston, MA)

“ALI-ABA - Basic Law of Pensions, Welfare Plans and Deferred Compensation”, July 2001 Topics: Participants’ Rights for Administrative Claims Procedures and Implementing the Rollover Rules (Boston, MA)

“IRS and DOL Voluntary Compliance Programs”, June 2001, Joint Conference sponsored by Northeast Key District Office of the Internal Revenue Service and American Society of Pension Actuaries, (Natick, MA and White Plains, NY)

“Fiduciary Responsibility and Liability in the Age of Web Based Technology”, May 2001, Institute for International Research, (New York, NY)

“Employee Discharge and Documentation”, March 2001, Lorman Business Center (Bedford, NH)

“ALI-ABA - Basic Law of Pensions, Welfare Plans and Deferred Compensation”, August 2000 Topics: Participants’ Rights for Administrative Claims Procedures and Implementing the Rollover Rules (San Francisco, CA)

“Investment Advice vs. Investment Education: Legal Risks, Opportunities & Dilemmas – How the Law is Evolving”, June 2000, Pension Group East (New York, NY)

“Friend or Foe? The Pros and Cons of the New Department of Labor Voluntary Fiduciary Correction Program”, May 2000, Tax Management Memorandum Presentation (New York, NY)

“Employee Discharge and Documentation”, March 2000, Lorman Business Center (Bedford, NH)

“Investment Advice v. Investment Education”, November 1999, 29th Annual Pension Trust and Employee Benefits Seminar at University of South Carolina, (Columbia, SC)

“The Next Generation of Client Retention – Enhancing Retention Through Partnership Management”, Institute for International Research, (New York, NY) November 1999

“Cash Balance Pension Plans: New Directions? New Dangers?”, November 1999, Jewish Labor Committee

“Recordkeeping and Reporting under ERISA”, October 1999, Lorman Business Center, Inc. (Bedford, NH)

“ALI-ABA - Basic Law of Pensions, Welfare Plans and Deferred Compensation”, July 1999 (Boston, MA). Topics: Participants’ Rights for Administrative Claims Procedures and Implementing the Rollover Rules

“Investment Advice vs. Investment Education: Legal Risks, Opportunities & Dilemmas – How the Law is Evolving”, May 1999 and June 1999, Investment Management Institute & Institute of Management & Administration, Inc. (Pasadena, California and New York, New York)

“Retirement Plan Basics”, May 1999 and June 1999, International Foundation of Employee Benefit Plans-Certificate Series; (Towers Perrin, Voorhees, N.J. and Employee Benefits Certificate Credit Course, New York, NY)

“Client Symposium: Education vs. Advice for Retirement Plans”, May 1999, Wachovia Investment Bank Institutional Trust and Retirement Services Client Conference (Williamsburg, Virginia)

“Employee Discharge and Documentation”, March 1999, Lorman Business Center, Inc. (Manchester, NH)

“The 1999 Congress on Defined Contribution Plans”, March 1999, Institute for International Research, Institutional Retirement and Savings Plan Series, (New Orleans, LA)

“What Constitutes ‘Education’?... What Constitutes ‘Advice’? - The Final Word”, December 1998, International Business Communications (New York, NY)

“Fiduciary Issues for Plan Sponsors and Providers”, November 1998, Institute for International Research (Atlanta, Georgia)

“Changes in Required Minimum Distribution Rules”, October 1998, (Boston, MA). Conference of Consulting Actuaries Annual Meeting

“ALI-ABA - Basic Law of Pensions, Welfare Plans and Deferred Compensation”, July 1998 (Palo Alto, CA). Topics: Participants’ Rights for Administrative Claims Procedures and Implementing the Rollover Rules

“Recordkeeping and Reporting Under ERISA”, June 1998, Lorman Business Center, Inc. (Lexington, MA)

“Advising Small Businesses”, June 1998, Massachusetts Continuing Legal Education, Inc.

“Benefits Upon Termination”, March 1998, Lorman Business Centers, Inc. (Nashua, NH)

“The Provision of Investment Advice Under Prohibited Transaction Exemption 97-60”, February 1998, the Association of the Bar of the City of New York - Committee on Employee Benefits (New York, NY)

“Effects of Plan Disqualification”, January 1998, National CLE Conference by Law Education Institute, Inc. (Vail, Colorado)

“Investment Advice Under New Prohibited Transaction Exemption”, November 1997, Advisory Board of Tax Management, Inc. (New York, NY)

“Recordkeeping and Reporting Under ERISA”, August 1997, Lorman Business Center, Inc. (Manchester, NH)

“ALI-ABA - Basic Law of Pensions, Welfare Plans and Deferred Compensation”, July 1997 (Boston, MA). Topics: Participants’ Rights for Administrative Claims Procedures and Implementing the Rollover Rules

“Employee Benefits Conference - Plan Corrections Programs”, May 1997, Joint Conference sponsored by Northeast Key District Office of Internal Revenue Service and American Society of Pension Actuaries (White Plains, NY)

“Advising Small Businesses”, May 1997, Massachusetts Continuing Legal Education, Inc.

“Employee Discharge and Documentation”, March 1997, Lorman Business Centers, Inc. (Nashua, NH)

“ERISA Update”, March 1997, Boston Bar Association

“Flash Points and Red Flags in ERISA That Can Make - or Lose - Money for Your Company”, December 1996, New England Corporate Counsel Association

“Pension Law: What’s New, What’s Not”, November 1996, Massachusetts Bar Association (Chairperson)

“ERISA and Employee Benefits Law After the Recent Legislation”, November 1996, CPA and Business EXPO, Massachusetts Society of Certified Public Accountants

“Federal Tax Legislative Update”, November 1996, Massachusetts Bar Association

“Seminar on 1996 Tax Legislation”, October 1996, Massachusetts Bar Association

“Advising Small Businesses”, June 1996, Massachusetts Continuing Legal Education, Inc.

“Plan Terminations: How to File a Determination Letter Request”, May 1996, American Institute of Certified Public Accountants, 1996 Employee Benefits Conference (Baltimore, Maryland)

“Plan Disqualification Issues”, September 1995, 1995 Midwest Pension Conference (Kansas City, Missouri)

“Advising Small Businesses”, June 1995, Massachusetts Continuing Legal Education, Inc.

“Developing a 401(k) Investment Education Program”, May 1995, The Philadelphia Institute

“Correcting Plan Defects: From VCR to CAP”, May 1995, New York University Institute on Federal Taxation

“Fiduciary Responsibility Under ERISA and the Role of ERISA Section 404(c)”, March 1995, Guest Speaker at Harvard Kennedy School Symposium for Prudential Securities

“Common ERISA Problems for Employment Lawyers”, March 1995, Massachusetts Bar Association (Co-Panelist with Department of Labor Representatives)

“Update Regarding Brooklyn IRS Key District Office Pension Liaison Issues”, February 1995, Open Meeting of Massachusetts Bar Association Section of Taxation

“Section 403(b) Compliance: What are the Issues and Alternatives?”, November 1994, Guest Speaker at Estate and Business Planning Council of Worcester County

“Plan Disqualification Issues”, September 1994, Guest Speaker at Annual Meeting of the Boston Society of Actuaries

“Advising Small Businesses”, May 1994, Massachusetts Continuing Legal Education, Inc.

Lecturer at Employee Plans Practitioner Series, sponsored by Brooklyn Key District and District's Pension Liaison Group, March 1994

“Plan Disqualification and Correction”, Lecture and Workshop, February 1994, Tax Management Educational Institute Compensation Planning '94 (Scottsdale, Arizona)

“Employee Benefits for the Nonspecialist”, October 1993, Massachusetts Continuing Legal Education, Inc.

“The Clinton Deficit Reduction Tax Legislation”, September 1993, Massachusetts Bar Association

“ERISA Basics: Part II”, May 1993, Massachusetts Bar Association (Chairperson)

“Advising Small Businesses”, January 1993, Massachusetts Continuing Legal Education, Inc.

“ERISA Basics: Part I”, December 1992, Massachusetts Bar Association (Chairperson)

“Employee Benefits: Form 5500 Workshop”, November 1992, The Foundation for Continuing Education, Inc.

“Disqualification: Questions, Answers and Solutions”, November 1992, Boston Bar Association

“Employee Benefits Update '92”, February 1992, Massachusetts Continuing Legal Education, Inc.

“Understanding Pension Plans”, June 1991, The American Tax Planning Center

“How the New Nondiscrimination Rules Affect the Structure and Operation of Qualified Plans”, October 1990, Massachusetts Continuing Legal Education, Inc.

“New Section 401(a)(4) Regulations Package”, October 1990, Boston Bar Association

**Select
Whitepapers**

“The Impact of Next Generation' IRAs: myRA Accounts, EZ IRA and State-Mandated IRAs”, Legg Mason, April 2016

“What Bankruptcy Trustees Need to Know About Pension Plans”, Penchecks Trust Expert Series, 2013

“Minimizing an Employer's Fiduciary Risk Through the Retirement Plan Exchange”, Transamerica Retirement Solutions, September 2013

“Tactical Asset Allocation & ERISA Plans: Best Practices for Finding the Right Strategy for Plan Participants”, The Center For Due Diligence, August 19, 2013

“Overcoming Fiduciary Fears: Understanding the Real Risks of Liability for Small Plan Sponsors”, June 2013

“Promoting and Evaluating the Success of Your Plan”, Legg Mason, May 2013

“Separating Fact from Fiction: The Potential Risks and Rewards of Hiring 3(16) Fiduciaries”, Sentinel Benefits & Financial Group, April 29, 2013

“Broader “Fiduciary” Definition”: Legal Update”, byallaccounts, February 2013

“Fiduciary Guidebook for Target Date Funds”, Legg Mason, February 2013

“A Plan Sponsor’s Fiduciary Calling to Improve the Retirement Readiness of Plan Participants”, LPL Financial, February 2013

“Through the ERISA Lens: Principles of DC Fund Selection”, Legg Mason, December 2012

“404a-5 Disclosures to Participants: Best Practices for Plan Sponsors”, Legg Mason, August 2012

“Fee Disclosures Under ERISA Section 408(b)(2)”, Eaton Vance, June 2012

“Putting 408(b)(2) Disclosure Rules Into Practice: A Guide for PlanSponsors”, Legg Mason, June 2012

“The Savings Crisis of Working Americans: The Retirement Industry Call to Action”, Legg Mason Retirement Advisory Council, January 2012

“Navigating the New Realities of 401(k) Participant Education”, Legg Mason, June 2012

“Washington Update: The Changing Face of 401(k) Plan Regulations”, Legg Mason, June 2012

“Are Investment Providers Finally Stepping Up to The Plate as Plan Fiduciaries?”, Thornburg Investments, September 2011

“Navigating the New Realities of 401(k) Participant Education”, Legg Mason, August 2011

“Washington Update: The Changing Face of 401(k) Plan Regulations”, Legg Mason, February 2011

“Fee Transparency and Best Practices for Plan Sponsors”, Legg Mason, October 2010

“Fiduciary Guidebook for Target Date Funds”, Legg Mason, August 2010

“Are Your 401(k) Plan Assets Safe?”, Thornburg Investments, March 2009

Directorships

Boston University Hillel (August 2020 -)

Global Tracheostomy Collaborative Board (January 2019 -)

Legg Mason Retirement Advisory Council (2010 -)

Jewish National Fund (2005 -)

Standard & Poor’s Retirement Planning Services Advisory Board (1999-2000)

Board of Directors - Boston Modern Orchestra Project (1998-2000)

APPENDIX C

**Books
Published**

Mandated Benefits 2020 Compliance Guide – Co-authors Katherine A. Brustowicz, Danna L. Delano, David G. Gabor, Barry L. Salkin, and Roberta Casper Watson, Wolters Kluwer, December 2019

Exploring Advice: What You Need to Know About Good Financial Advice, a Quality Financial Plan and the Role of a Fiduciary, Kevin Knull, CFP (Marcia S. Wagner, contributing author)

Quick Reference to HIPAA Compliance, Aspen Publishers, 2016-2017 edition

The Advisor's Guide to the DOL Fiduciary Rule - The National Underwriter Company, a division of ALM Media, LLC, 2016

Financial Aspects of Divorce in Massachusetts, MCLE New England, 2016

Quick Reference to HIPAA Compliance, Aspen Publishers, 2015-2016 edition

Quick Reference to HIPAA Compliance, Aspen Publishers, 2014-2015 edition

BNA Tax Management Portfolio: "EPCRS - Plan Correction and Disqualification", 2014

Advising Small Businesses: "Qualified Retirement Plans", West Services, Inc. 2007-2014 editions

BNA Tax Management Portfolio: "ERISA-Litigation, Procedure, Preemption and Other Title I Issues", 2013

Quick Reference to HIPAA Compliance, Aspen Publishers, 2013-2014 edition

Quick Reference to HIPAA Compliance, Aspen Publishers, 2012-2013 edition

Health Care Reform Tool Kit, editor, WorldatWork.org, 2012

The ERISA Fiduciary Compliance Guide, The National Underwriter Company, 2012

BNA Tax Management Portfolio: "ERISA-Litigation, Procedure, Preemption and Other Title I Issues", 2005 and 2012 editions

Quick Reference to HIPAA Compliance, Aspen Publishers, 2011-2012 edition

Quick Reference to HIPAA Compliance, Aspen Publishers, 2010-2011 edition

BN Tax Management Portfolio: “EPCRS - Plan Correction and Disqualification”, 2010

Quick Reference to HIPAA Compliance, Aspen Publishers, 2004-2010 editions

Bender’s Federal Income Taxation of Retirement Plans, (Chapter 1: Introduction to Retirement Legislation and Guide to Application: From ERISA to Pension Protection Act) and (Chapter 11: Controlled Groups and Affiliated Service Groups) 2008 edition

BN Tax Management Portfolio: “EPCRS – Plan Correction and Disqualification”, 2004 and 2009 editions

BN Tax Management Portfolio: “Plan Disqualification and ERISA Litigation” (1993); update 1999

Labor and Employment Law: Compliance and Litigation, Contributor for ERISA/employee benefits chapters, Clark, Boardman, Callaghan, 1997

**Articles
Published**

“Pooled Employer Plans”, 401(k) Advisor, October 2021

“IRS Updates Guidance Regarding Correction of Tax-Qualified Plan Errors Under the Employee Plans Compliance Resolution System (EPCRS)”, 401(k) Advisor, September 2021

“Pooled Employer Plans”, NSCP Currents, August 2021

“Do You Have Questions About How to Comply with the New DOL Fiduciary ‘Investment Advice’ Prohibited Transaction Exemption?”, (Part 2) 401(k) Advisor, August 2021

“Do You Have Questions About How to Comply with the New DOL Fiduciary ‘Investment Advice’ Prohibited Transaction Exemption?”, (Part 1) 401(k) Advisor, July 2021

“Liability-Driven Investing and Other De-risking Strategies for Pension Plans”, Co-author, Barry L. Salkin, Lexis Practical Guidance, June 2021

“Important Benefit Plan Provisions of the American Rescue Plan Act of 2021”, 401(k) Advisor, June 2021

“Liability-Driven Investing and Other De-risking Strategies for Pension Plans”, Co-author, Barry L. Salkin, Lexis Practical Guidance, June 2021

“Does the Recently Amended Investment Duties Regulation Change How Fiduciaries Are Expected to Make Investment Decisions for Employee Benefit Plans?”, 401(k) Advisor, March/April 2021

“Disclosure to Welfare Plan Participants: A Fiduciary Duty”, Tax Management Compensation Planning Journal, March 5, 2021

“Withdrawals and Loans from Defined Contribution Retirement Plans”, rethinking65.com, March 3, 2021

“IRS New Guidance on State Unclaimed Property Laws and IRS Helpful Reminders on Missing Participants”, 401(k) Advisor, February 2021

“PEPs Will be Up and Running by January 2021”, 401(k) Advisor, January 2021

“ERISA Fiduciary Responsibility and Economic Efficiency”, Bloomberg Tax Management Compensation Journal, December 31, 2020

“IRS and PBGC Provide Guidance on CARES Act Relief for Funding of Single Employer Defined Benefit Plans”, 401(k) Advisor, November, 2020

“Proposed Changes to DOL Fiduciary Investment Regulation: What You Should Know and How The Wagner Law Group Responded”, 401(k) Advisor, October, 2020

“The DOL’s Final Regulations on E-Disclosure of Retirement Plan Documents Become Effective Soon – Are You Ready?”, 401(k) Advisor, September, 2020

“DOL Offers Guidance to Fiduciaries Considering Private Equity Investments in Defined Contribution Plans”, 401(k) Advisor, August, 2020

“Cybersecurity and Retirement Plans: What Plan Sponsors Should Do”, 401(k) Advisor, July, 2020

“Withdrawals and Loans from Defined Contribution Retirement Plans”, 401(k) Advisor, June, 2020

“Let’s Finish What We Started... ERISA and Fiduciary Process Have Evolved...Have You?”, 401(k) Advisor, May, 2020

“Application of Dudenhoeffer in Private Company Setting”, 401(k) Advisor, April, 2020

“A Brave New Fiduciary World”, planadviser.com, April 7, 2020

“ERISA’s Fiduciary Standard for Investment Portfolios”, Plan Consultant magazine, (an official publication of ASPPA), Spring 2020

“Massachusetts Advances Regulations Imposing Fiduciary Duty on Broker-Dealers”, 401(k) Advisor, February, 2020

“Investment Manager Obligations”, 401(k) Advisor, January, 2020

“Duty to Monitor”, 401(k) Advisor, December, 2019

“The Extent of Obligation”, Planadviser, November-December, 2019

“Fiduciary Obligations of a New Committee Member”, 401(k) Advisor, November, 2019

“A Standing Issue in Class Action Lawsuits”, 401(k) Advisor, October, 2019

“Class Certification Lite”, 401(k) Advisor, September, 2019

“ERISA Bonds”, 401(k) Advisor, August, 2019

“Major Ruling in ‘Plan Sponsor as Fiduciary’ Lawsuit”, 401kspecialistmag.com, August 8, 2019

“Forum Selection Clauses”, 401(k) Advisor, July, 2019

“Substantial Compliance”, 401(k) Advisor, June, 2019

“Concerned About Reg BI? Here’s Marcia Wagner’s Breakdown for Broker-Dealers”, 401kspecialistmag.com, June 7, 2019

“Denial of Benefits – How the DOL Views Disability Claims”, Planadviser, May-June, 2019

“Importance of Process”, 401(k) Advisor, May, 2019

“Investment Policy Statement”, 401(k) Advisor, April, 2019

“An IPS Is Not Required – But There’s No Good Reason For A Plan Not to Have One”, Planadviser, March-April, 2019

“Respondeat Superior in ERISA Context”, 401(k) Advisor, March, 2019

“The Need to Investigate Collective Trusts”, 401(k) Advisor, February, 2019

“7 Situations When HSA Contributions Can Be Returned: IRS”, 401kspecialistmag.com, February 13, 2019

“How the Government Shutdown is Affecting Retirement and Benefit Plans”, 401(k)specialistmag.com, January 24, 2019

“Open Question Regarding “Eye Single” Duty of Loyalty, 401(k) Advisor, January, 2019

“ERISA Section 409(b)”, 401(k) Advisor, December, 2018

“ERISA Section 409(b)”, Planadviser, November-December, 2018

“Everything to Know About Retirement Plan Provisions in Latest Tax Bill”, 401(k)specialistmag.com, November 29, 2018

“Actual Knowledge Requirement”, 401(k) Advisor, November, 2018

“Aggressive Enforcement of Five-Factor Test”, 401(k) Advisor, October, 2018

“Appropriate Benchmarking”, PlanAdviser, September-October, 2018

“Duty of Loyalty”, 401(k) Advisor, September, 2018

“Alternative Ways of Becoming a Fiduciary” , 401(k) Advisor, August, 2018

“Statute of Limitations”, Planadviser, July-August, 2018

“Nexus Requirement for Fiduciary Breach”, 401(k) Advisor, July, 2018

“Robo-Advisors”, 401(k) Advisor, June, 2018

“Limited Liability of a Trustee”, Planadviser, May-June, 2018

“IRAs and Prohibited Transactions”, 401(k) Advisor, May, 2018

“Share Class Selection Disclosure Initiative”, 401(k) Advisor, April, 2018

“Views SEC Proposes ‘Best Interest’ Guidance Under Dodd-Frank”, employeebenefitadviser.com, April 26, 2018

“What a Court Decision Teaches 401(k) Advisers About Choosing Stable-Value Funds”, investmentnews.com, April 19, 2018

“Duty to Investigate”, [401\(k\) Advisor](http://401(k) Advisor), March 2018

“Tax Reform Will Have Limited Effect on 401(k) Plans”, [401\(k\) Advisor](http://401(k) Advisor), February 2018

“The Duty to Monitor”, [401\(k\) Advisor](http://401(k) Advisor), January, 2018

“Modern Portfolio Theory and Efficient Markets”, [401\(k\) Advisor](http://401(k) Advisor), December, 2017

“Recent Cases and IRS Guidance with Respect to Loan Administration Under 401(k) Plans”, [401\(k\) Advisor](http://401(k) Advisor), November, 2017

“Excessive-Fee Litigation in Retirement Plan Market Moving Downstream”, investmentnews.com, November 22, 2017

“BICE and Related Exemptions: Limiting Liability Before Implementation”, Pension Plan Fix It Handbook_Volume 25, No. 4, November 2017

“The Courts Differ on Vicarious Liability”, planadviser.com, September/October 2017

“Fiduciary Liability Defenses under ERISA”, [401\(k\) Advisor](http://401(k) Advisor), October, 2017

“Burden of Proof in A Fiduciary Breach Claim”, [401\(k\) Advisor](http://401(k) Advisor), September, 2017

“Back to Basics: Who is A Fiduciary under ERISA?”, [401\(k\) Advisor](http://401(k) Advisor), August, 2017

“Proprietary Funds”, planadviser.com, July/August 2017

“Appointing and Monitoring a 401(k) Investment Manager Under ERISA”, investmentnews.com, July 13, 2017

“Plan Assets and Prohibited Transactions; Determining What are Plan Assets is Not as Easy as it Seems”, planadviser.com, May/June 2017

“Trump Order and Employee Benefits”, planadviser.com, March/April 2017

“Advisers Should Heed Fiduciary Principles in Ongoing Tibble 401(k) Suit”, investmentnews.com, April 11, 2017

“Constitutional Standing; A Plaintiff Must Establish a Traceable Injury in Order to Bring Legal Action”, PlanSponsor, March 2017

“Don’t Get Burned: Marcia Wagner’s Top 401k Regulatory Risks”, 401kspecialistmag.com, February 26, 2017

“DOL Issues Final Regulations Regarding Claims Procedures for Disability Benefits”, 401(k) Advisor, February, 2017

“DOL's Final Rule on Disability Benefits”, PlanAdviser, January/February 2017

“Trump Executive Order May Prevent Guidance on Employee Benefits Issues”, investmentnews.com, February 7, 2017

“2017 Plan Litigation”, 401(k) Advisor, January 2017

“Process Remains Critical Factor in ERISA 401(k) Plan Litigation” 401(k) Advisor, December 2016

“Burden of Proof”, PlanAdviser, November/December 2016

“Why it Would be a Mistake For Advisers to Stop Implementing the DOL Fiduciary Rule”, investmentnews.com, December 1, 2016

“Plan Reflection: Satisfying Nondiscrimination Testing at Closed DC Plans”, PlanSponsor, November, 2016

“Managed Accounts and the Conflicts of Interest Rule”, 401(k) Advisor, November, 2016

“What The DOL's Final Fiduciary Rule Means for Plan Committees”, 401(k) Advisor, October, 2016

“IRS Restricts Salary Deferrals for NQDC Plans”, PlanAdviser, September-October, 2016

“IRS Proposal to Modify Rules for Deferred Compensation Plans of Governmental and Tax-Exempt Plans”, 401(k) Advisor, September, 2016

“Governmental Plans Will Receive Face-Lift”, PlanSponsor, July-August, 2016

“Level Fee Fiduciaries and the BICE”, 401(k) Advisor, August, 2016

“Impact of New Fiduciary Rules on an Excess Fee Lawsuit”, 401(k) Advisor July, 2016

“What the DOL’s Final Fiduciary Rule Means for 401(k) Plans”, 401(k) Advisor June, 2016

“The Fiduciary Status of Investment Platform Providers”, 401(k) Advisor, May 2016

“Ethical Considerations - Understanding The Limitations With Which Advisers Operate”, PlanSponsor, May 2016

“Mid-Year Amendments to Safe Harbor 401(k) Plans Made Easier”, 401(k) Advisor, April 2016

“Fiduciary Fitness: Expanding Coverage”, PlanAdviser, March-April 2016

“The Evolution of ERISA Fiduciary Best Practices”, IMCA Investments & Wealth Monitor, March/April 2016

“Supreme Court’s Amgen Decision Clarifies Treatment of Inside Information in Stock Drop Cases”, 401(k) Advisor, March 2016

“They Are Back: New Theories from the Plaintiffs’ Bar in 401(k) Litigation”, 401(k) Advisor, February 2016

“De-Risking Strategies”, PlanSponsor, February 2016

“Raising the Plaintiffs’ Bar”, PlanAdviser, January-February 2016

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APPENDIX D

**Cases in which Marcia S. Wagner, Esq. has Previously Testified
or Submitted an Expert Report**

Falberg et al. v. The Goldman Sachs Group, Inc., et al.

(Served as Expert Witness for the Plaintiffs)

United States District Court for the Southern District of New York

2021

Ms. Wagner was retained by counsel (Nichols Kaster, PLLP) for the Plaintiffs, as an expert on the standards of conduct and practices for fiduciaries that manage retirement plan assets, to evaluate whether Defendants' processes for managing a 401(k) plan (the "Plan") was consistent with the prevailing standard of care that a prudent fiduciary acting solely in the interest of the Plan's participants and beneficiaries would use. In particular, counsel for the Plaintiffs requested that Ms. Wagner determine: (i) whether the Defendants' process for selecting and monitoring the Plan's investment options was consistent with the applicable standard of care; and (ii) to assess the Defendants' conduct in retaining and monitoring certain proprietary investments as investment options for the Plan. Further, Ms. Wagner evaluated whether the fiduciaries with responsibility for overseeing the Defendants adequately monitored the Defendants' management of the Plan's investment lineup.

Travel Nurse Across America, LLC v. Floyd Edwards Holdings, Inc., et. al.

(Served at Expert Witness for the Defendants)

Supreme Court of the State of New York

2021

Ms. Wagner was retained by counsel (Koley Jessen P.C., L.L.O.) for the Defendants, as an expert on evaluating whether Trinity Healthcare Staffing Group, LLC's policies for reimbursing its temporary healthcare professionals on away-from-home assignments were sufficient to satisfy the *per diem* tax rules. In particular, Counsel have asked Ms. Wagner to opine on whether during the time period from January 2015 through January 11, 2017, Trinity's policies for reimbursing its TOAs for their *per diem* expenses while on temporary away-from-home assignments were compliant with prevailing industry standards. Counsel have further asked Ms. Wagner to opine on the correction methodology required to correct any *per diem* payments that Trinity may have paid to its TOAs during the relevant period, that did not comply with its internal tax policies concerning *per diem* payments.

Albert et al. v. The Retirement Board of The Denver Employees' Retirement Plan, et. al.

(Served as Expert Witness for the Plaintiffs)

District Court, City and County of Denver, State of Colorado

2021

Ms. Wagner was retained by counsel (McNamara & Schechter LLP) for the Plaintiffs, as an expert on the fiduciaries that manage the administration of tax-qualified retirement plans, to evaluate whether the Defendants' process for managing a defined benefit pension plan (i.e., the DERP Plan) was consistent with the prevailing standards of care a prudent fiduciary acting in the best interest of the DERP Plan's participants and beneficiaries would use. In particular, counsel

for Plaintiffs have asked me to determine whether it was consistent with the applicable standard of care for the Defendants to disregard the terms of the DERP Plan in administering the Plaintiffs' retirement benefits, and to assess the Defendants' conduct in: (i) calculating the amount of retirement benefits to which the Plaintiffs were entitled to receive under the terms of the DERP Plan; (ii) effectuating the payment of the Plaintiffs' retirement benefits from the DERP Plan; (iii) communicating with the Plaintiffs about their retirement benefits; and (iv) monitoring the amount of retirement benefits paid to the Plaintiffs from the DERP Plan to ensure compliance with applicable laws.

Mass and Graf et al. v. Board of Regents of the University of California et al.

(Served as Expert Witness for the Plaintiffs)

**Superior Court of the State of California, County of Alameda
2021**

Ms. Wagner was retained by counsel (Nichols Kaster, PLLP) for the Plaintiffs, as an expert on the standards of conduct and practices of fiduciaries charged with responsibility for the administration of a retirement plan, to: (i) offer analysis regarding the Defendants' administration and disclosures for the defined benefit pension plan; and (ii) evaluate whether Defendants' processes for disclosing the material terms of the plan were consistent with the prevailing standard of care that a fiduciary acting solely in the interest of the plan's participants and beneficiaries would use. In particular, counsel for the Plaintiffs requested that Ms. Wagner evaluate whether the Defendants met the applicable standard of care for disclosing to plan members the consequences of delaying making a claim for retirement benefits past age 60.

Pizarro et al. v. The Home Depot, Inc. et al.

(Served as Expert Witness for the Defendants)

**United States District Court for the Northern District Georgia, Atlanta Division
2021**

Ms. Wagner was retained by counsel (King & Spalding LLP) for the Defendant employer and its plan committees to produce an expert report and to testify as an expert with respect whether the Defendants followed a prudent process as to: (i) monitoring, reviewing and retaining the 401(k) plan's investment advisory service providers, including the fees charged by those providers; and (ii) selecting, monitoring and management of certain investments made available as options on the 401(k) plan's investment menu.

Reetz et al. v. Lowe's Companies, Inc. et al.

(Served as Expert Witness for the Plaintiffs)

**United States District Court for the Western District North Carolina
2020**

Ms. Wagner was retained by counsel (Nichols Kaster, PLLP) for the Plaintiffs, as an expert on the standards of conduct and practices for fiduciaries that manage retirement plan assets, to evaluate whether Defendants' processes for managing a 401(k) plan (the "Plan") was consistent with the prevailing standard of care that a prudent fiduciary acting solely in the interest of the Plan's participants and beneficiaries would use. In particular, counsel for the

Plaintiffs requested that Ms. Wagner: (i) evaluate whether the Plan's fiduciaries met the applicable standard of care with respect to their process for restructuring the Plan's investment lineup, which included removing certain investment options and replacing them with a Growth Fund established and maintained by the Plan's 3(38) investment manager; and (ii) to assess the Defendants' conduct in retaining and monitoring the Growth Fund in the Plan's lineup. In addition, Ms. Wagner evaluated whether the fiduciaries with responsibility for overseeing the Defendants adequately monitored the Defendants' management of the Plan.

Nelsen et al. v. Principal Global Investors Trust Company et al.

(Served as Expert Witness for the Plaintiffs)

United States District Court for the Southern District of Iowa, Central Division

2020

Ms. Wagner was retained by counsel (Nichols Kaster, PLLP) for the Plaintiffs, as an expert on the standards of conduct and practices for fiduciaries that manage retirement plan assets, to evaluate whether Defendants' processes for managing a target date collective investment trust ("CIT") was consistent with the prevailing standard of care that a prudent fiduciary acting solely in the interest of the CIT's retirement plan investors would use. In particular, counsel for Plaintiffs asked Ms. Wagner to: (i) determine whether the Defendants' process for selecting and monitoring the CIT's underlying investments was consistent with the applicable standard of care; and (ii) to assess the Defendants' conduct in retaining and monitoring certain proprietary investments as underlying investments for the CIT. Further, Ms. Wagner evaluated whether the fiduciaries with responsibility for overseeing the Defendants adequately monitored the Defendants' management of the CIT's underlying investments.

Baird et al. v. BlackRock Institutional Trust Company, N.A.

(Served as Expert Witness for the Plaintiffs)

United States District Court for the Northern District of California, Oakland Division

2020

Ms. Wagner was retained by counsel (Cohen Milstein Sellers & Toll PLLC) for the Plaintiffs, as an expert on the standards of conduct and practices for fiduciaries that manage retirement plan assets, to evaluate whether Defendants' processes for managing a 401(k) plan (the "Plan") was consistent with the prevailing standard of care that a prudent fiduciary acting solely in the interest of the Plan's participants and beneficiaries would use. In particular, counsel for the Plaintiffs requested that Ms. Wagner evaluate whether the Defendants met the applicable standards of care with respect to their processes for: (i) selecting and monitoring the Plan's investment options; (ii) evaluating the fees and risks attributable to certain proprietary Plan investment options that engaged in the practice of securities lending; (iii) selecting and monitoring the Plan's securities lending agent; (v) disclosing the securities lending fees charged to Plan participants in view of the prevailing standards for fee disclosures made by ERISA plan fiduciaries. In addition, Ms. Wagner reviewed whether the Plan fiduciaries with oversight responsibility for Defendants sufficiently monitored the Defendants' management the Plan.

Payne v. DST Systems, Inc., et al.
(Served as Expert Witness for the Claimant)
American Arbitration Association
2020

Ms. Wagner was retained by counsel (Humphrey, Farrington & McClain, P.C.) for the Plaintiff, as an expert on the standards of conduct and practices of fiduciaries that manage retirement plan assets, to evaluate whether Defendants' process for managing the profit sharing component of a 401(k) plan (the "Plan") was consistent with the prevailing standard of care that a prudent fiduciary acting in the best interest of the Plan's participants and beneficiaries would use. In particular, counsel for the Plaintiff requested that Ms. Wagner review and determine: (i) whether the Defendants prudently and effectively monitored the Plan's 3(38) investment manager and its compliance with the Duty of Diversification under the Employee Retirement Income Security Act of 1974 ("ERISA"), and (ii) whether the Defendants took timely and effective remedial action once it became clear that the securities for a single business enterprise had increased in value to become more than 25% of the assets comprising the Plan's profit sharing component.

New York State Nurses Association Pension Plan v. White Oaks Global Advisors, LLC
(Served as Expert for the Plaintiffs)
American Arbitration Association – New York Regional Office (New York)
2019

Ms. Wagner was retained by counsel (Covington & Burling LLP) for the Plaintiff, *i.e.*, the trustees for a union-sponsored pension plan, as an expert in connection with matters relating to the standard of conduct and practices of 3(38) fiduciaries that manage retirement plan assets. In particular, Ms. Wagner has been engaged to evaluate whether the Defendant registered investment adviser violated the Employee Retirement Income Security Act of 1974 and breached a related Investment Management Agreement.

Turner et al. v. Northern Montana Hospital, et al.
(Served as Expert for the Defendants)
United States District Court for the District of Montana, Great Falls Division
2019

Ms. Wagner was retained by counsel (Strong & Hanni, PC) for one of the defendant-hospitals to produce an expert report to evaluate whether the actions taken by the defendant in connection with its health insurance plan were consistent with the requirements of Title I of ERISA. In particular, counsel for the defendant requested that Ms. Wagner review and determine whether the defendant's implementation of its agreement with an insurer satisfied the requirements of Title I of ERISA. Specifically, Ms. Wagner's report included a review of the plan's compliance with ERISA's trust requirements, whether certain amounts were in fact plan assets under ERISA and whether the allocation of payments between plan participants and the defendant complied with ERISA.

Gopher et al. v. Wells Fargo Bank, N.A., et al.
(Served as Expert for the Plaintiffs)
Circuit Court for Broward County, Florida
2019

Ms. Wagner was retained by counsel (Conrad & Scherer LLP) for the plaintiffs to produce an expert report and to testify as an expert in rebuttal to a claim that the criteria to establish a rabbi trust under the Internal Revenue Code of 1986 applied to the terms and conditions of the Seminole Tribe of Florida Minors' Per Capita Trust Agreement and that such trust operated as a rabbi trust.

Jacobs et al. v. Verizon Communications Inc., et al.
(Served as Expert for the Defendants)
United States District Court for the Southern District of New York
2019

Ms. Wagner was retained by counsel (DLA Piper LLP) on behalf of the defendant-plan sponsor to produce an expert report and to testify with respect to the standards of conduct imposed on plan fiduciaries under the ERISA. In particular, the report provided an evaluation of the plan sponsor's adherence to these fiduciary standards with respect to its selection and monitoring of an alternative investment option as an investment option in its 401(k) plan investment lineup.

Beach et al. v. JPMorgan Chase Bank, et al.
(Served as Expert for the Plaintiffs)
United States District Court for the Southern District of New York
2019

Ms. Wagner was retained by counsel (Kessler, Topaz, Meltzer & Check, LLP) for the Plaintiffs as an expert on the standards of conduct and practices of fiduciaries that manage retirement plan assets, to evaluate whether Defendants' process for managing a 401(k) plan (the "Plan") was consistent with the prevailing standard of care that a prudent fiduciary acting in the best interest of the Plan's participants and beneficiaries would use. In particular, counsel for the Plaintiffs requested that Ms. Wagner review and determine whether the Defendants: (i) met the applicable standards of care with respect to their process for selecting and monitoring the Plan's investment options; and (ii) adequately monitored the Plan fiduciaries appointed to manage the Plan's investment options.

Great-West Life & Annuity Insurance Company and FAScore LLC v. Perry Christie and Voya Financial, Inc.
(Served as Expert for the Plaintiffs)
District Court, Arapahoe County, Colorado
2019

Ms. Wagner was retained by counsel (Davis, Graham & Stubbs LLP) for the Plaintiffs (Great-West) as an expert on the standards of conduct and practices for administrative service

providers, including recordkeeping service providers such as the Plaintiffs and Defendants in the matter. In particular, counsel for the Plaintiffs requested that Ms. Wagner review and determine whether the Defendants' conduct was consistent with the standards of conduct and ethics established within the retirement plan industry.

Moitoso et al. v. FMR LLC, et al.

(Served as Expert for the Plaintiffs)

**United States District Court for the District of Massachusetts
2019**

Ms. Wagner was retained by counsel (Nichols Kaster, PLLP) for the Plaintiffs as an expert with respect to whether Defendants' process for managing a 401(k) plan (the "Plan") was consistent with the prevailing standard of care that a prudent fiduciary acting in the best interest of the Plan's participants and beneficiaries would use. In particular, counsel for Plaintiffs asked Ms. Wagner to determine whether it was consistent with the applicable standard of care for the Defendants to disregard all fiduciary norms in selecting and monitoring all but two of the Plan's hundreds of investment options, and to assess the Defendant committees' conduct in: (i) retaining certain proprietary investments as Plan investment options, and (ii) monitoring the performance and expenses attributable to these Plan investments.

Charles Dennis, M.D., v. Deborah Heart and Lung Center

(Served as Expert for the Defendant)

**Superior Court of New Jersey – Chancery Division
2019**

Ms. Wagner was retained by counsel (Epstein, Becker & Green, P.C.) for the Defendant, as an expert in matters arising under Title I of ERISA, including evaluating whether an arrangement qualifies as an employee benefit plan under Section 3(3) of ERISA, and whether a certain variable life insurance policy purchased by the Plaintiff pursuant to a salary reduction agreement with Defendant was a plan covered by ERISA.

Ology Bioservices, Inc. v. Goodwin Procter, LLP

(Served as Expert for the Claimant)

**American Arbitration Association – Southeast Case Management Center (Atlanta)
2019**

Ms. Wagner was retained by counsel (Chandler Law LLC) for the claimant corporation to produce an expert report with respect whether the Defendants committed legal malpractice and breached their fiduciary duties owed to the corporation by providing negligent legal advice in connection with the claimant's issuance of stock option awards. Among other things, the Defendants were accused of rendering incorrect legal advice concerning the underlying stock valuations and related tax issues under Internal Revenue Code Section 409A.

Culinary Academy of Las Vegas v. Fava et al.
(Served as Expert for the Plaintiff)
United States District Court, District of Nevada
2019

Ms. Wagner was retained by counsel (Brownstein Hyatt Farber Schreck LLP) and produced an expert report on behalf of the board of trustees for an Apprenticeship and Training Plan (“ATP”) evaluating whether the Defendants had breached their fiduciary duties owed to the ATP under ERISA by failing to act prudently and solely in the interest of the ATP’s participants and beneficiaries, and to exercise the skill, care, prudence and diligence in administering the ATP and its assets. Among other things, the Defendants were accused of causing the ATP to engage in costly operations that were beyond the scope of its stated non-profit purpose (*i.e.*, to provide education and training opportunities in the Las Vegas hospitality industry).

Marshall, et. al. v. Northrop Grumman Corporation, et. al.
(Served as Expert for Defendant)
United States District Court, Central District of California
2018

Ms. Wagner was retained by counsel (Mayer Brown LLP) for the Defendant employer and its plan committees to produce an expert report and to testify as an expert with respect whether the Defendants followed a prudent process in overseeing reimbursements made from a 401(k) plan to the employer for expenses the employer incurred (*e.g.*, salaries and fringe benefits) in providing certain administrative and investment-related services to the 401(k) plan.

Marilyn Johnson, et. al v. City of Memphis
(Served as Expert for Plaintiff)
United States District Court, Western District of Tennessee, Western Division
2018

Ms. Wagner was retained by counsel (Attorney David M. Sullivan) and provided an expert opinion on behalf of the Plaintiff with respect to the application of Internal Revenue Code Section 415 to governmental plans and long service police officers, and the relationship of the Code Section 415 limitations to a plan’s benefit formula.

Quatrone, et. al. v. Gannett Co., Inc. et. al.
(Served as Expert for Plaintiff)
United States District Court, Eastern District of Virginia Alexandria Division
2018

Ms. Wagner was retained by counsel (Izard, Kindall & Raabe LLP) and provided an expert report on behalf of participants in a 401(k) plan. The report evaluated whether the plan sponsor followed a prudent process in monitoring and continuing to offer the former plan sponsor’s common stock as a plan investment option following its spinoff from the current plan sponsor in 2015.

TI Group Automotive Systems, LLC v. Vollmar, et. al.

(Served as Expert for Defendant)

Delaware Superior Court

2018

Ms. Wagner was retained by counsel (Clark Hill PLC) and delivered an expert report in a case involving a dispute over certain representations and warranties made under a stock purchase agreement concerning the administration of the company's ERISA-governed defined contribution retirement plan. In particular, Ms. Wagner's report included a review of the plan's compliance with the Internal Revenue Code's nondiscrimination requirements in order to maintain its tax-qualified status thereunder.

Barrett, et. al. v. Pioneer Natural Resources USA, Inc., et. al.

(Served as Expert for Plaintiff)

District of Colorado

2018

Ms. Wagner was retained by counsel (Franklin D. Azar & Associates, P.C.) and prepared an expert report on behalf of participants in a 401(k) plan. The report evaluated the plan sponsor's adherence to the standards of conduct imposed on plan fiduciaries under the Internal Revenue Code and ERISA with respect to the selection, monitoring and retention of the plan's recordkeeper and certain investment options appearing on the plan's platform.

Spires et al. v. Schools et al

(Served as Expert for the Plaintiff)

United States District Court, District of South Carolina Charleston Division

2018

Ms. Wagner was retained by counsel (Wyche, P.A.) and prepared an expert report on behalf of participants in an employee stock ownership plan ("ESOP") that evaluated whether the Defendants breached their fiduciary duties owed to the Plaintiffs under ERISA by failing to act prudently and solely in the interest of the Plan's participants and beneficiaries, and to exercise the skill, care, prudence and diligence in administering the Plan and its assets during the Class Period.

Novant Health, Inc. v. Federal Insurance Company, Inc. and Travelers Casualty and Surety Company of America

(Serve as Expert for Defendant)

United States District Court, District of South Carolina Charleston Division

2018

Ms. Wagner was retained by counsel (Cozen O'Connor P.C.) and prepared an expert report on behalf of two insurance companies that had issued primary and excess fiduciary liability insurance policies to Novant. Ms. Wagner's report evaluated whether \$32 million was a reasonable amount for Novant to settle a matter involving certain breach of fiduciary claims brought against the fiduciaries for several of its defined contribution plans. Ms. Wagner's report

included an analysis of whether the investment management fees, recordkeeping fees, and investment consulting fees paid by Novant's defined contribution plans were reasonable.

Sacerdote et al. v. New York University

(Served as Expert for Defendant)

United States District Court, Southern District of New York

2017

Ms. Wagner was retained by counsel (DLA Piper LLP) and prepared an expert report on behalf of a plan sponsor for two defined contribution retirement plans relating to the standards of conduct imposed on plan fiduciaries under the Internal Revenue Code and ERISA. In particular, the report provided an evaluation of the plan sponsor's adherence to these fiduciary standards with respect its: (i) retention of the plans' recordkeepers; and (ii) selection and monitoring of the plans' investment options.

Moreno et al. v. Deutsche Bank Matched Savings Plan Investment Committee, et al.

(Served as Expert for Plaintiff)

United States District Court, Southern District of New York

2017

Ms. Wagner was retained by counsel (Nichols Kaster PLLP) and provided an expert report on behalf of participants in a 401(k) plan concluding that the Defendants had failed to adhere to a prudent process regarding the selection and monitoring of investment options for the plan's investment menu by favoring proprietary investments issued by the plan sponsor and disregarding the plan's investment policy statement in the selection and monitoring process.

Urakhchin et al. v. Allianz Asset Mgmt. of America, L.P. et al.

(Served as Expert for Plaintiff)

United States District Court, Central District of California

2017

Ms. Wagner was retained by counsel (Nichols Kaster PLLP) and produced an expert report on behalf of participants in a 401(k) plan relating to the duties owed to them by Allianz Asset Management of America, L.P. ("Allianz") with respect to its role as the plan's sponsor and fiduciary for the plan. In particular, the report provided an evaluation of: (i) whether it was consistent with the applicable standard of care and the best interests of participants and beneficiaries to maintain a plan investment menu consisting entirely of investments affiliated with Allianz; (ii) whether Allianz prudently and objectively evaluated and monitored the investments in the plan's investment menu; (iii) whether Allianz' conduct in approving the addition of certain proprietary funds and a new default investment option to the plan's investment menu was consistent with fiduciary standards and the best interests of participants and beneficiaries; and (iv) whether Allianz adequately addressed potential conflicts-of-interest.

Austin v. Union Bond & Trust Company**(Served as Expert for Plaintiff)****United States District Court, District of Oregon, Portland Division****2017**

Ms. Wagner was retained by counsel (Schneider Wallace Cottrell Konecky LLP) and produced an expert report on behalf of participants in an employee stock ownership plan (“ESOP”) relating to the duties owed by Union Bond & Trust Company (“Union”) and Morley Capital Management, Inc. (“Morley”) with respect to their roles as fiduciaries for a collective investment trust that was an investment option under the ESOP. The report discussed the duties of prudence and loyalty and whether Union and Morley had breached these duties by imprudently managing the fund, thereby resulting in significantly lower investment returns than those of its peers.

Bentley et al. v. Equity Trust Company**(Served as Expert for Defendant)****Court of Common Pleas, Lorain County Ohio****2017**

Ms. Wagner was retained by counsel (Ulmer Law Firm, which is now known as Ulmer & Berne LLP) and produced an expert report on behalf of a custodian for certain self-directed individual retirement accounts (“IRA”s), relating to the standards of conduct imposed on custodians under the Internal Revenue Code and ERISA and how such standards relate to custodians holding IRA assets. In addition, the report discussed what level of monitoring can be expected from providers of custodial services, particularly in the context of fraudulent activity by third parties rendering investment advice to IRA owners and providing plan investments to their IRAs.

Main et al. v. American Airlines, Inc. et al.**(Served as Expert for Plaintiff)****Texas Northern District Court****2017**

Ms. Wagner was retained by counsel (Nichols Kaster PLLP) and produced an expert report on behalf of participants in an employer-sponsored defined contribution plan relating to the duties owed to them by American Airlines, Inc. (“American”) with respect to its role as the plan’s sponsor and fiduciary for the plan. The report discussed the duties of prudence and loyalty and whether American violated these duties with its decision to continue to offer mutual funds issued by a controlled-group member investment advisory firm as designated investment alternatives for plan participants. In addition, the report evaluated an independent fiduciary’s process for determining whether it was prudent and in the interest of the plan to retain the controlled-group member as the plan’s investment manager responsible for selecting and monitoring the plan’s designated investment alternatives. Finally, the report appraised the process used by American’s benefit plan committees for addressing potential conflicts of interest and whether those processes were adequate.

Sgroi v. Edward D. Jones and Company, L.P.
(Served as Expert for the Plaintiff)
2015

Ms. Wagner was retained by counsel (Mark D. Sullivan, P.C.) and produced an expert report on behalf of a participant in a simplified employee pension plan (“SEP”), as defined under Section 408(k) of the Internal Revenue Code, relating to the duties owed by Edward D. Jones and Company in recommending the establishment of the SEP to the participant’s Wyoming governmental employer where adoption of such a plan by a Wyoming governmental entity was prohibited by state law. The report discussed an adviser’s duty of prudence with respect to recommendations relating to the selection of a viable retirement benefits plan.

DeLollis et al. v. Investment Performance Services, LLC
(Served as Expert for the Defendant)
United States District Court, Eastern District of New York
2014

Ms. Wagner was retained by counsel (Sichenzia Ross Friedman Ference LLP) and prepared an expert report and on behalf of a national investment consulting firm on investment allocation practices by Taft-Hartley plans seeking recovery of funds lost as a result of investment in Madoff feeder funds. The case entails issues of adherence to investment policy guidelines with respect to alternative investments and following appropriate steps to comply with ERISA standards of procedural prudence.

Dunkin’ Brands, Inc. v. Pernod Ricard USA, LLC
(Served as Expert for the Defendant)
2013

Ms. Wagner was retained by counsel (Casner & Edwards, LLP) and delivered an expert report in a case involving a dispute over the allocation of plan expenses between formerly affiliated plan sponsors under an administrative cost sharing agreement. The report included a review of plan expenses, discussion of those expenses properly paid from plan assets and an explanation of required procedures for reimbursement of expenses paid by an employer.

Tax Deferred Services Group v. Cetera Advisors Network, LLC
(Served as Expert for the Defendant)
Arbitration Matter
2013

Ms. Wagner furnished an expert report and was engaged as an expert witness in arbitration proceedings contesting a third party administrator’s putative authority to exercise signature authority on behalf of a plan sponsor and, pursuant to such purported authority, to transfer 457(b) plan accounts to investment providers selected by the administrator. Ms. Wagner concluded that such an assumption of fiduciary authority would violate the exclusive benefit and prudence standards of ERISA and California law. Moreover, based on Ms. Wagner’s experience, it would

have exceeded the authority of the typical administrator so that a specific delegation of fiduciary authority (not mere signatory authority) would have been required to move funds.

Spaz Beverage Co. Defined Benefit Pension Plan v. 1st Global Advisors
(Served as Expert for the Defendant)
Arbitration Matter
2012

Ms. Wagner was retained by counsel for the Defendants (Sichenzia Ross Friedman Ference LLP) to provide an expert report and to testify in arbitration proceedings as an expert in rebuttal to a claim that ERISA fiduciary standards require liquidation of defined benefit pension plan assets within a precise period of time following notice of the plan's impending termination. The plan in question suffered severe losses in the financial downturn of 2008 - 2009 as a result of its equity investments which were liquidated by the plan without the concurrence of the Defendant investment advisor.

Harris et al. v. Koenig et al.
(Served as Expert for the Plaintiff)
United States District Court, District of Columbia
2011

Ms. Wagner was retained by counsel (Stember Feinstein Doyle Payne & Cordes, LLC) and was asked by Plaintiffs to evaluate the conduct of State Street Bank and Trust Company, as plan trustee, in settling securities law claims held by the Waste Management Retirement Savings Plan against the plan sponsor. Ms. Wagner concluded that State Street's actions and omissions in responding to the offer of settlement violated the standard of care applicable to fiduciaries settling and releasing claims, as prescribed by statute as well administrative guidance, such as Prohibited Transaction Exemption 2003-39. These duties are premised on the assumption that a claim for fiduciary breach is an asset of the plan and that a fiduciary's decision whether to opt out of a class action settlement must include an evaluation of the dollar value of the claim to be relinquished and whether the terms of the release are too broad and might be modified to preserve ERISA claims.

Shirk v. Fifth Third Bancorp
(Served as Expert for the Plaintiff)
United States District Court for the Southern District of Ohio, Western Division
2008

Shirk was a stock drop-case in which participants in a 401(k) plan that also qualified as an ESOP incurred losses due to the decline in value of the plan's investment in employer stock. Ms. Wagner was retained by counsel (Scott & Scott, LLP) and requested by Plaintiffs to render an opinion on the fiduciary standards that applied to the plan fiduciary's decision to continue the plan's investment in employer stock in light of the employer's deteriorating financial condition. Ms. Wagner concluded that, given the plan's structure and the facts applicable to the employer, the plan fiduciaries could and should have exercised their fiduciary duty to terminate the investment in employer stock.

Walker et al. v. Monsanto Company Pension Plan and Monsanto Company
(Served as Expert for the Plaintiff)
United States District Court for the Southern District of Illinois
2008

Monsanto involved a cash balance plan where the plan sponsor had discontinued making interest credits on behalf of participants after the attainment of age 55. Ms. Wagner was retained by counsel (Schlichter, Bogard & Denton, LLP) and rendered an expert opinion on behalf of the Plaintiffs that this practice failed to meet statutory requirements prohibiting age discrimination.

Abbott et al. v. Lockheed Martin Corporation
(Served as Expert for the Plaintiff)
United States District Court for the Southern District of Illinois
2008

Ms. Wagner was retained by counsel (Schlichter, Bogard & Denton, LLP) for the Plaintiffs to render an expert opinion as to the operational procedures employed by Lockheed Martin with respect to its 401(k) plans for the purpose of meeting the requirements of section 404(c) of ERISA. That provision relieves ERISA fiduciaries of liability where investment losses result from a plan participant's exercise of discretion and control with respect to the investment of his or her plan account, provided the plan sponsor furnishes participants with sufficient investment information and discloses certain material facts about the plan and its administration. Ms. Wagner concluded that Lockheed Martin's actions during a specified period consistently fell short of what was required to obtain this relief from fiduciary responsibility.

APPENDIX E

I. Deposition Transcripts and Associated Exhibits

- Deposition Transcript and Associated Exhibits of John van Merkensteijn, dated April 19, 2021.
- Deposition Transcript and Associated Exhibits of John van Merkensteijn, dated April 20, 2021.
- Deposition Transcript and Associated Exhibits of Elizabeth van Merkensteijn, dated January 20, 2021.
- Deposition Transcript and Associated Exhibits of Shreepal Shah, dated January 25, 2021.
- Deposition Transcript and Associated Exhibits of Robert Klugman, dated January 28, 2021.
- Deposition Transcript and Associated Exhibits of Robert Crema, dated February 9, 2021.
- Deposition Transcript Associated Exhibits of Jocelyn Markowitz, dated February 3, 2021.
- Deposition Transcript and Associated Exhibits of Ronald Altbach, dated October 30, 2020.
- Deposition Transcript and Associated Exhibits of David Zelman, dated December 11, 2020.
- Deposition Transcript and Associated Exhibits of Robin Jones, dated November 4, 2020.
- Deposition Transcript and Associated Exhibits of Perry Lerner, dated September 16, 2020.
- Deposition Transcript and Associated Exhibits of Joseph Herman, dated July 9, 2020.
- Deposition Transcript and Associated Exhibits of Michael Ben Jacob, dated October 11, 2021.
- Deposition Transcript and Associated Exhibits of Michael Ben Jacob, dated October 12, 2021.
- Deposition Transcript and Associated Exhibits of Louise Kaminer, dated October 27, 2020.
- Deposition Transcript and Associated Exhibits of Gavin Crescenzo, dated November 24, 2020.
- Deposition Transcript and Associated Exhibits of Doston Bradley, dated October 14, 2020.
- Deposition Transcript and Associated Exhibits of Matthew Tucci, dated November 10, 2020.
- Deposition Transcript and Associated Exhibits of George Hofmeister, dated June 16, 2021.
- Deposition Transcript and Associated Exhibits of John LaChance, dated June 11, 2020.
- Deposition Transcript and Associated Exhibits of Thomas Kertelits, dated June 4, 2020.
- Deposition Transcript and Associated Exhibits of Stacey Kaminer, dated April 19, 2021.
- Deposition Transcript and Associated Exhibits of Stacey Kaminer, dated April 20, 2021.
- Deposition Transcript and Associated Exhibits of Kathleen Wechter, dated November 22, 2021.
- Deposition Transcript and Associated Exhibits of Arthur Woodard, dated November 18, 2021.

- Deposition Transcript and Associated Exhibits of Peter Wells, dated May 27, 2021.
- Deposition Transcript and Associated Exhibits of Jerome Lhote, dated December 2, 2021.
- Deposition Transcript and Associated Exhibits of Todd Bergeron, dated September 15, 2020.
- Deposition Transcript and Associated Exhibits of Gregory Summers, dated September 9, 2021.
- Deposition Transcript and Associated Exhibits of Gregory Summers, dated September 15, 2021.
- Deposition Transcript and Associated Exhibits of John Doscas, dated January 12, 2021.
- Deposition Transcript and Associated Exhibits of Darren Wittwer, dated April 20, 2021.
- Deposition Transcript and Associated Exhibits of Vincent Tew, dated August 20, 2020.
- Deposition Transcript and Associated Exhibits of Stephanie Tew, dated August 25, 2020.
- Deposition Transcript and Associated Exhibits of Bernard Tew, dated December 2, 2021.
- Deposition Transcript and Associated Exhibits of David Schulman, dated October 21, 2020.
- Deposition Transcript and Associated Exhibits of Joan Schulman, dated October 22, 2020.
- Deposition Transcript and Associated Exhibits of Alexander Jamie Mitchel III, dated May 14, 2020.
- Deposition Transcript and Associated Exhibits of Shahab Hashemi, dated October 7, 2021.
- Deposition Transcript and Associated Exhibits of Shahab Hashemi, dated October 8, 2021.
- Deposition Transcript and Associated Exhibits of Sheldon Goldstein, dated November 9, 2020.
- Deposition Transcript and Associated Exhibits of Scott Goldstein, dated November 11, 2020.
- Deposition Transcript and Associated Exhibits of David Frelove, dated June 17, 2021.
- Deposition Transcript and Associated Exhibits of Carl Andrew Vergari, dated February 12, 2020.
- Deposition Transcript and Associated Exhibits of Mitchell Protass, dated July 1, 2020.
- Deposition Transcript and Associated Exhibits of Svetlin Petkov, dated February 5, 2020.
- Deposition Transcript and Associated Exhibits of Richard Markowitz, dated April 8, 2021.
- Deposition Transcript and Associated Exhibits of Richard Markowitz, dated April 9, 2021.
- Deposition Transcript and Associated Exhibits of Roger Lehman, dated August 9, 2021.
- Deposition Transcript and Associated Exhibits of Roger Lehman, dated August 10, 2021.
- Deposition Transcript and Associated Exhibits of Sean Driscoll, dated April 13, 2020.

II. Legal Documents

- Plaintiff Skatteforvaltningen’s (“SKAT’s”) Responses and Objections to Defendant Michael Ben-Jacob’s Requests for Admission, dated October 7, 2021. Related to docket number 18-md-2865 (LAK) and case number 21-cv-05339.
- SKAT’s Responses and Objections to Defendant Michael Ben-Jacob’s First Set of Interrogatories, dated October 22, 2021. Related to docket number 18-md-2865 (LAK) and case number 21-cv-05339.
- SKAT’s Memorandum of Law in Support of Its Motion for Issuance of a Request for International Judicial Assistance to Obtain Evidence (Letters Rogatory), dated April 27, 2020. Related to all cases for docket number 18-md-2865 (LAK).
- SKAT’s Complaint Against Michael Ben-Jacob, dated June 16, 2021. Related to docket number 18-md-2865 (LAK).
- SKAT’s Amended Complaint, *Skatteforvaltningen v. American Investment Group of New York, L.P. Pension Plan, Robert Crema, Stacey Kaminer, and Acer Investment Group, LLC*. Related to docket number 18-md-2865 (LAK) and case number 18-cv-09841.
- Defendant Doston Bradley’s Objections & Answers to Plaintiff Skatteforvaltningen’s First Set of Interrogatories to Certain Plan Defendants. Related to docket number 18-md-2865 (LAK) and case number
- SKAT’s Amended Complaint, *Skatteforvaltningen v. Avanix Management LLC Roth 401K Plan*. Related to docket number 18-md-2865 (LAK) and case number 19-cv-01867 (LAK).
- Defendant Roger Lehman’s Responses and Objections to Plaintiff Skatteforvaltningen’s First Set of Interrogatories.
- Defendant Michael Ben-Jacob’s Objections and Response to Plaintiff’s First Set of Interrogatories dated December 15, 2021.

III. Ethics Opinions

- New York City Bar Association Formal Ethics Opinion 2018-4 entitled “Duties When an Attorney Is Asked to Assist in a Suspicious Transaction”.
- April 29, 2020 American Bar Association Formal Opinion 491 entitled “Obligations Under Rule 1.2(d) to Avoid Counseling or Assisting in a Crime or Fraud in Non-Litigation Settings”.
- May 23, 2013 American Bar Association Formal Opinion 463 entitled “Client Due Diligence, Money Laundering, and Terrorist Financing”.
- July 16, 1981 American Bar Association Informal Opinion 1470 entitled “DUTY OF LAWYER TO INQUIRE INTO FRAUDULENT OR CRIMINAL CONDUCT AND DISCLOSE PAST ACTIVITIES OF A PROSPECTIVE CLIENT”.
- August 26, 2019 New York State Bar Association Ethics Opinion 1171 entitled “Deceptive Conduct — Assisting foreign clients to make investments that are subject to foreign currency

controls”.

IV. Bates Stamped Documents¹

- 78YORK00000060
- 78YORK00000506
- 78YORK00000510
- ACER_00000026
- ACER_00000236
- ACER_00000327
- ACER_00000328
- ACER_00000329
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- ACER_00015440
- ACER_00015471

1. All references to Bates-stamped documents are inclusive of the documents' family.

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- ZENTRNG00000442
- ZENTRNG00000487
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- ZENTRNG00000851

APPENDIX F

Plan	Case No.	Damages (DKK)	Damages (USD)	Submissions to SKAT	Participant	Relationship	Citation	LLC Name	LLC Format ion Date	Citation	Plan Format ion Date	Citation	First Equity Purch ase Date	Citation	Final Equity Purch ase Date	Citation
2321 Capital Pension Plan	19-cv-10713-LAK	59,259,338.98	9,651,385.14	SKAT_MDL_001_00079311	Luke McGee	M. Stein's Associate	Public Records	2321 Capital LLC	2013-02-08	MPSKAT00275535	2013-02-06	WH_MDL_00051310	2013-03-07	MPSKAT00077924	2014-08-07	WH_MDL_00039112
Alden Investments Pension Plan	21-cv-05339-LAK	33,428,649.01	5,444,405.38	Pending Production	Jerome Lhote	Argre Principal	R. Markowitz Tr. at 24:7-10	Alden Investments LLC	2013-06-11	MPSKAT00020358	2013-06-10	MPSKAT00020387	2013-11-26	MPSKAT00098584	2014-08-07	MPSKAT00146096
AOI Pension Plan	21-cv-05339-LAK	62,043,570.34	10,104,816.02	Pending Production	Matthew Stein	Argre Principal	R. Markowitz Tr. at 24:7-10	AOI LLC	2004-12-14	MPSKAT00246613	2013-02-04	MPSKAT00021018	2013-03-07	MPSKAT00135071	2014-08-07	MPSKAT00158693
Azalea Pension Plan	19-cv-01893-LAK	34,272,958.65	5,186,000.00	SKAT_MDL_001_00060171	Elizabeth van Merkensteijn	J. van Merkensteijn's Wife	E. van Merkensteijn Tr. at 22:20-23	Azalea LLC	2013-06-11	JHVM_0012972	2013-06-20	WH_MDL_00212578	2013-11-26	MPSKAT00135175	2014-08-07	GUNDERSON00001174
Batavia Capital Pension Plan	19-cv-01895-LAK	32,525,021.28	4,921,000.00	SKAT_MDL_001_00059916	Richard Markowitz	Argre Principal	R. Markowitz Tr. at 24:7-10	Batavia Capital LLC	2013-06-11	MPSKAT00001255	2013-06-17	WH_MDL_00000420	2013-11-26	MPSKAT00135185	2014-08-07	MPSKAT00000030
Bernina Pension Plan	19-cv-01865-LAK	57,878,013.06	8,757,000.00	SKAT_MDL_001_00059498	John van Merkensteijn	Argre Principal	R. Markowitz Tr. at 24:7-10	Bernina LLC	2012-03-15	JHVM_0020353	2013-02-07	WH_MDL_00252474	2013-03-07	MPSKAT00000049	2014-08-07	GUNDERSON00001183
Bowline Management Pension Plan	19-cv-10713-LAK	32,623,807.40	5,313,323.68	SKAT_MDL_001_00079434	Luke McGee	M. Stein's Associate	Public Records	Bowline Management LLC	2012-07-31	MPSKAT00021819	2013-06-10	WH_MDL_00051302	2013-11-26	MPSKAT00135195	2014-08-07	MPSKAT00158856
California Catalog Company Pension Plan	19-cv-10713-LAK	68,239,884.94	11,113,987.78	SKAT_MDL_001_00077851	Daniel Stein	M. Stein's Brother	Public Records	California Catalog Company LLC	2001-09-25	Public Records	2012-05-18	WH_MDL_00051366	2012-08-08	MPSKAT00164496	2014-08-07	MPSKAT00168076
Calypso Investments Pension Plan	19-cv-01904-LAK	33,379,513.00	5,050,000.00	SKAT_MDL_001_00060023	Jocelyn Markowitz	R. Markowitz's Wife	J. Markowitz Tr. at 18:11-13	Calypso Investments LLC	2013-06-10	MPSKAT00234853	2013-06-19	WH_MDL_00000732	2013-11-26	MPSKAT00200771	2014-08-07	MPSKAT00000104
Carrick Holdings Pension Plan	21-cv-05339-LAK	35,837,050.21	5,836,653.13	Pending Production	Matthew Stein	Argre Principal	R. Markowitz Tr. at 24:7-10	Carrick Holdings LLC	2012-07-31	MPSKAT00234855	2013-06-10	MPSKAT00022809	2013-11-26	MPSKAT00135205	2014-08-07	MPSKAT00158846
Clove Pension Plan	19-cv-10713-LAK	36,671,823.15	5,972,609.63	SKAT_MDL_001_00079539	Adam LaRosa	Argre Employee	R. Markowitz Tr. at 229:1-9	Clove Hitch LLC	2012-07-31	MPSKAT00234891	2013-06-10	WH_MDL_00051374	2013-11-26	MPSKAT00200781	2014-08-07	MPSKAT00168211
Davin Investments Pension Plan	19-cv-10713-LAK	62,335,426.34	10,944,145.98	SKAT_MDL_001_00078367	David Vinyon	M. Stein's Brother-In-Law	Public Records	Davin Investments LLC	2012-08-13	Public Records	2012-08-21	WH_MDL_00051372	2013-02-28	MPSKAT00200791	2014-08-07	MPSKAT00210289
Delvian LLC Pension Plan	19-cv-10713-LAK	67,197,056.32	10,944,145.98	SKAT_MDL_001_00079683	Alicia Colodner	Argre Employee	Public Records	Delvian LLC	2011-01-13	MPSKAT00274815	2012-05-22	WH_MDL_00051374	2012-08-08	MPSKAT00063281	2014-08-07	MPSKAT00168085
DFL Investments Pension Plan	19-cv-10713-LAK	58,539,511.97	9,534,122.47	SKAT_MDL_001_00078487	David Colodner	A. Colodner's Husband	Public Records	DFL Investments LLC	2013-01-25	Public Records	2013-01-29	WH_MDL_00051304	2013-03-07	JHVM_0005297	2014-08-07	MPSKAT00158722
Ganesha Industries Pension Plan	21-cv-05339-LAK	60,013,224.29	9,774,140.76	Pending Production	Jerome Lhote	Argre Principal	R. Markowitz Tr. at 24:7-10	Ganesha Industries LLC	2013-01-30	MPSKAT00234917	2013-02-06	MPSKAT00025707	2013-03-07	MPSKAT00078063	2014-08-07	MPSKAT00168220
Laegeler Asset Management Pension Plan	19-cv-10713-LAK	58,152,480.95	9,471,088.10	SKAT_MDL_001_00079182	Brian & Cindy Laegeler	R. Markowitz's Former Colleague	Public Records	Laegeler Asset Management LLC	2008-04-29	Public Records	2013-02-06	WH_MDL_00051300	2013-03-07	MPSKAT00078073	2014-08-07	MPSKAT00168013
Lion Advisory Inc. Pension Plan	19-cv-10713-LAK	71,184,845.65	11,593,623.07	SKAT_MDL_001_00077254	Luke McGee	M. Stein's Associate	Public Records	Lion Advisory Inc.	2012-04-03	Public Records	2012-05-23	MPSKAT00026540	2012-08-08	MPSKAT00080959	2014-08-07	WH_MDL_00039433
Mazagran Pension Plan	21-cv-05339-LAK	33,824,311.17	5,508,845.47	Pending Production	Martha Flores Longoria	J. Lhote's Wife	Public Records	Mazagran LLC	2013-06-11	MPSKAT00241525	2013-06-13	MPSKAT00027571	2013-11-26	MPSKAT00166475	2014-08-07	MPSKAT00158913
Michelle Investments Pension Plan	19-cv-01906-LAK	73,769,108.87	11,166,000.00	SKAT_MDL_001_00058318	Lhote, Markowitz, Stein & van Merkensteijn	Argre Principals	R. Markowitz Tr. at 24:7-10	Michelle Investments LLC	2007-11-15	WH_MDL_00360718	2012-05-10	WH_MDL_00051272	2012-08-08	JHVM_0005618	2014-08-07	MPSKAT00000271
Mill River Capital Management Pension Plan	19-cv-10713-LAK	68,724,181.76	11,192,863.48	SKAT_MDL_001_00077994	Adam LaRosa	Argre Employee	R. Markowitz Tr. at 229:1-9	Mill River Capital Management LLC	2006-05-24	Public Records	2012-05-21	WH_MDL_00051308	2012-08-08	JHVM_0005642	2014-08-07	MPSKAT00168184
Next Level Pension Plan	19-cv-10713-LAK	60,406,334.19	9,838,165.18	SKAT_MDL_001_00078994	Edwin Miller	J. van Merkensteijn's Friend	D. Zelman Tr. at 122:1-5	Next Level, LLC	2005-12-06	GUNDERSON00009809	2013-02-08	WH_MDL_00252262	2013-03-07	JHVM_0005408	2014-08-07	MPSKAT00158769
Pleasant Lake Productions Pension Plan	21-cv-05339-LAK	33,566,455.35	5,466,849.41	Pending Production	Kristen Anne Vinyon Stein	M. Stein's Wife	Public Records	Pleasant Lake Productions LLC	2013-06-11	MPSKAT00234859	2013-06-17	MPSKAT00029282	2013-11-26	MPSKAT00166540	2014-08-07	MPSKAT00167959
Rajan Investments LLC Pension Plan	19-cv-10713-LAK	59,742,677.42	9,730,077.76	SKAT_MDL_001_00078233	W.C. Thomas Bergerson	M. Stein's Friend	Public Records	Rajan Investments LLC	2012-07-30	WH_MDL_00218947	2012-08-14	WH_MDL_00051478	2012-11-27	MPSKAT00063541	2014-08-07	MPSKAT00168112
Raubritter LLC Pension Plan	18-cv-04833-LAK	59,825,380.94	9,308,000.00	SKAT_MDL_001_038942	Alexander Burns	Unknown	N/A	Raubritter, LLC	2012-10-09	Public Records	2012-08-23	WH_MDL_00051379	2012-11-27	MPSKAT00080801	2014-08-07	MPSKAT00168121
Remece Investments LLC Pension Plan	19-cv-01911-LAK	57,825,442.00	8,750,000.00	SKAT_MDL_001_00058595	Lhote, Markowitz, Stein & van Merkensteijn	Argre Principals	R. Markowitz Tr. at 24:7-10	Remece Investments LLC	2009-11-24	JHVM_0033255	2012-05-21	WH_MDL_00051274	2013-03-07	WH_MDL_00032684	2014-08-07	MPSKAT00158779
RJM Capital Pension Plan	19-cv-01898-LAK	59,487,345.00	9,001,000.00	SKAT_MDL_001_00059293	Richard Markowitz	Argre Principal	R. Markowitz Tr. at 24:7-10	RJM Capital LLC	2007-07-17	WH_MDL_00358608	2013-02-01	WH_MDL_00331778	2013-03-07	MPSKAT00078902	2014-08-07	MPSKAT00158808
Spirit On The Water Pension Plan	19-cv-10713-LAK	60,248,127.87	9,812,398.68	SKAT_MDL_001_00078808	Edwin Miller	J. van Merkensteijn's Friend	D. Zelman Tr. at 122:1-5	Spirit on the Water LLC	2011-10-12	Public Records	2013-02-08	WH_MDL_00252923	2013-03-07	WH_MDL_00032664	2014-08-07	MPSKAT00210240
Tarvos Pension Plan	19-cv-01930-LAK	36,038,252.00	5,453,000.00	SKAT_MDL_001_00059760	John van Merkensteijn	Argre Principal	R. Markowitz Tr. at 24:7-10	Tarvos LLC	2013-06-10	JHVM_0020443	2013-06-19	WH_MDL_00253093	2013-11-26	MPSKAT00135722	2014-08-07	MPSKAT00158941
Traden Investments Pension Plan	19-cv-10713-LAK	56,690,495.82	9,232,979.78	SKAT_MDL_001_00078610	Adam LaRosa	Argre Employee	R. Markowitz Tr. at 229:1-9	Traden Investments LLC	2013-01-30	Public Records	2013-02-01	WH_MDL_00051306	2013-03-07	MPSKAT00078882	2014-08-07	MPSKAT00168229
Xiphias LLC Pension Plan	19-cv-01924-LAK	71,255,023.38	10,782,000.00	SKAT_MDL_001_00058167	Lhote, Markowitz, Stein & van Merkensteijn	Argre Principals	R. Markowitz Tr. at 24:7-10	Xiphias LLC	2007-04-11	WH_MDL_00255254	2012-05-03	WH_MDL_00051276	2012-08-08	MPSKAT00000380	2014-08-07	MPSKAT00000495

APPENDIX G

Plan	Case No.	Participant(s)	Partnership Name	Plan Percentage	Other Partners / Percentage	Partnership Agreement
2321 Capital Pension Plan	19-cv-10713-LAK	Luke McGee	2321 Capital General Partnership	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	MPSKAT00056535
Bowline Management Pension Plan	19-cv-10713-LAK	Luke McGee	Bowline Management General Partnership	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	MPSKAT00061415
California Catalog Company Pension Plan	19-cv-10713-LAK	Daniel Stein	California Catalog General Partnership I	10.00%	Quartet (90%)	MPSKAT00056585
California Catalog Company Pension Plan	19-cv-10713-LAK	Daniel Stein	California Catalog General Partnership II	10.00%	AOI (22.5%); Bernina (22.5%); Ganesha (22.5%); RJM (22.5%)	WH MDL_00140555
Clove Pension Plan	19-cv-10713-LAK	Adam LaRosa	Clove General Partnership	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	MPSKAT00061425
Davin Investments Pension Plan	19-cv-10713-LAK	David Vinyon	Davin Investments General Partnership	10.00%	AOI (22.5%); Bernina (22.5%); Ganesha (22.5%); RJM (22.5%)	WH MDL_00140565
Delvian LLC Pension Plan	19-cv-10713-LAK	Alicia Colodner	Delvian General Partnership I	5.00%	Quartet (95%)	MPSKAT00023949
Delvian LLC Pension Plan	19-cv-10713-LAK	Alicia Colodner	Delvian General Partnership II	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	MPSKAT00056658
DFL Investments Pension Plan	19-cv-10713-LAK	David Colodner	DFL Investments General Partnership	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	WH MDL_00140537
Laegeler Asset Management Pension Plan	19-cv-10713-LAK	Brian & Cindy Laegeler	LAM General Partnership	10.00%	Quartet (90%)	MPSKAT00056698
Lion Advisory Inc. Pension Plan	19-cv-10713-LAK	Luke McGee	Lion Advisory General Partnership I	5.00%	Quartet (95%)	MPSKAT00026442
Lion Advisory Inc. Pension Plan	19-cv-10713-LAK	Luke McGee	Lion Advisory General Partnership II	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	MPSKAT00056736
Mill River Capital Management Pension Plan	19-cv-10713-LAK	Adam LaRosa	Mill River Capital Management General Partnership	5.00%	Quartet (95%)	GUNDERSON 00003480
Next Level Pension Plan	19-cv-10713-LAK	Edwin Miller	Next Level General Partnership	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	MPSKAT00056805
Rajan Investments LLC Pension Plan	19-cv-10713-LAK	Thomas Bergerson	Rajan Investments General Partnership I	5.00%	Quartet (95%)	MPSKAT00029558
Rajan Investments LLC Pension Plan	19-cv-10713-LAK	Thomas Bergerson	Rajan Investments General Partnership II	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	MPSKAT00056835
Raubritter LLC Pension Plan	18-cv-04833-LAK	Alexander Burns	Raubritter General Partnership I	10.00%	Quartet (95%)	MPSKAT00002816
Raubritter LLC Pension Plan	18-cv-04833-LAK	Alexander Burns	Raubritter General Partnership II	10.00%	AOI (22.5%); Bernina (22.5%); Ganesha (22.5%); RJM (22.5%)	MPSKAT00056875
Spirit On The Water Pension Plan	19-cv-10713-LAK	Edwin Miller	Spirit on the Water General Partnership	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	MPSKAT00056945
Traden Investments Pension Plan	19-cv-10713-LAK	Adam LaRosa	Traden Investments General Partnership	5.00%	AOI (23.75%); Bernina (23.75%); Ganesha (23.75%); RJM (23.75%)	WH MDL_00140619

APPENDIX H

Plan	Case No.	Damages (DKK)	Damages (USD)	Participant	Relationship	Citation	LLC Name	LLC Formation Date	Citation	Plan Formation Date	Citation	First Solo Custodian Equity Purchase	Citation	Final Equity Purchase	Citation
Aerovane Logistics LLC Roth 401(k) Plan	18-cv-07828 -LAK	49,783,000.10	7,988,000.00	Robert Klugman	Recruiter	N/A	Aerovane Logistics LLC	16-Jun-14	KLUGMAN00018046	16-Jul-14	KLUGMAN00040661	7-Aug-14	WH_MDL_00035610	7-Aug-15	KLUGMAN00003104
Albedo Management LLC Roth 401(k) Plan	19-cv-01785 -LAK	68,907,138.00	10,426,000.00	Joseph Herman	R. Markowitz's Brother-In-Law	J. Markowitz Tr. at 46:20-23	Albedo Management LLC	25-Aug-14	WH_MDL_00028478	2-Oct-14	MBJ_0010780	4-Dec-14	WH_MDL_00008987	7-Aug-15	MPSKAT00008166
Avanix Management LLC Roth 401(k) Plan	19-cv-01867 -LAK	68,945,863.00	10,432,000.00	Richard Markowitz	Recruiter	R. Markowitz Tr. at 368:14 - 369:13	Avanix Management LLC	16-Jun-14	WH_MDL_00143280	16-Jul-14	WH_MDL_00000001	7-Aug-14	WH_MDL_00030270	7-Aug-15	KLUGMAN00007326
Ballast Ventures LLC Roth 401(k) Plan	19-cv-01781 -LAK	28,283,537.00	4,279,000.00	Joseph Herman	R. Markowitz's Brother-In-Law	J. Markowitz Tr. at 46:20-23	Ballast Ventures LLC	25-Aug-14	WH_MDL_00028507	2-Oct-14	MBJ_00007982	4-Dec-14	WH_MDL_00008991	7-Aug-15	WH_MDL_000011852
Bareroot Capital Investments LLC Roth 401(k) Plan	19-cv-01783 -LAK	28,899,429.00	4,373,000.00	David Zelman	J. van Merkensteijn's Friend	D. Zelman Tr. at 20:19-22	Bareroot Capital Investments LLC	16-Jun-14	WH_MDL_00225982	17-Jul-14	MBJ_0000005	7-Aug-14	WH_MDL_00024089	7-Aug-15	MPSKAT00008967
Basalt Ventures LLC Roth 401(k) Plan	19-cv-01866 -LAK	27,853,521.00	4,214,000.00	John van Merkensteijn	Recruiter	J. van Merkensteijn Tr. at 176:3-16, 177:21-23	Basalt Ventures LLC	16-Jun-14	JHVM_0001927	22-Jul-14	WH_MDL_00339896	7-Aug-14	WH_MDL_00035630	7-Aug-15	GUNDERS ON00009434
Battu Holdings LLC Roth 401(k) Plan	19-cv-01794 -LAK	69,306,603.00	10,487,000.00	David Zelman	J. van Merkensteijn's Friend	D. Zelman Tr. at 20:19-22	Battu Holdings LLC	19-Jun-14	WH_MDL_00226291	17-Jul-14	MBJ_0000106	7-Aug-14	WH_MDL_00035646	7-Aug-15	MPSKAT00008246
Cantata Industries LLC Roth 401(k) Plan	19-cv-01798 -LAK	48,613,209.00	7,356,000.00	David Zelman	J. van Merkensteijn's Friend	D. Zelman Tr. at 20:19-22	Cantata Industries LLC	19-Jun-14	WH_MDL_00226288	17-Jul-14	MBJ_0000208	7-Aug-14	WH_MDL_00035642	7-Aug-15	MPSKAT00008272
Cavus Systems LLC Roth 401(k) Plan	19-cv-01869 -LAK	30,340,949.00	4,591,000.00	Richard Markowitz	Recruiter	R. Markowitz Tr. at 368:14 - 369:13	Cavus Systems LLC	16-Jun-14	WH_MDL_00225968	16-Jul-14	WH_MDL_00000144	7-Aug-14	WH_MDL_00035638	7-Aug-15	MPSKAT00008292

Plan	Case No.	Damages (DKK)	Damages (USD)	Participant	Relationship	Citation	LLC Name	LLC Formation Date	Citation	Plan Formation Date	Citation	First Solo Custodian Equity Purchase	Citation	Final Equity Purchase	Citation
Cedar Hill Capital Investments LLC Roth 401(k) Plan	19-cv-01922 -LAK	48,926,930.00	7,403,000.00	Edwin Miller	J. van Merkensteijn's Friend	D. Zelman Tr. at 122:1-4	Cedar Hill Capital Investments LLC	16-Jun-14	WH_MDL_00143278	18-Jul-14	KF_MDL_13023	7-Aug-14	WH_MDL_00035626	7-Aug-15	WH_MDL_000055217
Crucible Ventures LLC Roth 401(k) Plan	19-cv-01800 -LAK	47,579,533.00	7,199,000.00	Ronald Altbach	J. van Merkensteijn's Friend	R. Altbach Tr. at 27:19-22	Crucible Ventures LLC	16-Jun-14	WH_MDL_00225984	21-Jul-14	KF_MDL_12720	7-Aug-14	WH_MDL_00035634	7-Aug-15	MPSKAT00008339
Dicot Technologies LLC Roth 401(k) Plan	19-cv-01788 -LAK	28,027,173.00	4,241,000.00	David Zelman	J. van Merkensteijn's Friend	D. Zelman Tr. at 20:19-22	Dicot Technologies LLC	19-Jun-14	WH_MDL_00226294	17-Jul-14	MBJ_0000309	7-Aug-14	WH_MDL_00035658	7-Aug-15	MPSKAT00008359
Eclouge Industry LLC Roth 401(k) Plan	19-cv-01870 -LAK	48,315,325.00	7,310,000.00	Perry Lerner	J. van Merkensteijn's Friend	P. Lerner Tr. at 40:20-23	Eclouge Industry LLC	16-Jun-14	WH_MDL_00143271	18-Jul-14	WH_MDL_00240152 at 171	7-Aug-14	WH_MDL_00020346	7-Aug-15	MPSKAT00008386
Edgepoint Capital LLC Roth 401(k) Plan	18-cv-07827 -LAK	31,328,375.69	4,922,000.00	Robert Klugman	Recruiter	N/A	Edgepoint Capital LLC	16-Jun-14	KLUGMAN00004479	16-Jul-14	KLUGMAN00041104	7-Aug-14	WH_MDL_00035614	7-Aug-15	KLUGMAN00003945
Fairlie Investments LLC Roth 401(k) Plan	19-cv-01791 -LAK	29,051,405.00	4,395,000.00	Joseph Herman	R. Markowitz's Brother-In-Law	J. Markowitz Tr. at 46:20-23	Fairlie Investments LLC	25-Aug-14	WH_MDL_00028841	2-Oct-14	MBJ_0007880	4-Dec-14	WH_MDL_00008995	7-Aug-15	ELYSIUM-05094189
First Ascent Worldwide LLC Roth 401(k) Plan	19-cv-01792 -LAK	26,816,385.00	4,057,000.00	Perry Lerner	J. van Merkensteijn's Friend	P. Lerner Tr. at 40:20-23	First Ascent Worldwide LLC	16-Jun-14	WH_MDL_00225983	18-Jul-14	WH_MDL_00012125	7-Aug-14	WH_MDL_00020350	7-Aug-15	MPSKAT00008433
Fulcrum Productions LLC Roth 401(k) Plan	19-cv-01928 -LAK	26,910,520.00	4,072,000.00	Edwin Miller	J. van Merkensteijn's Friend	D. Zelman Tr. at 122:1-4	Fulcrum Productions LLC	16-Jun-14	WH_MDL_00162425	18-Jul-14	KF_MDL_13124	7-Aug-14	WH_MDL_00035662	7-Aug-15	KF_MDL_12113
Green Scale Management LLC Roth 401(k) Plan	19-cv-01926 -LAK	69,067,941.00	10,451,000.00	Edwin Miller	J. van Merkensteijn's Friend	D. Zelman Tr. at 122:1-4	Green Scale Management LLC	16-Jun-14	WH_MDL_00225985	18-Jul-14	KF_MDL_12922	7-Aug-14	WH_MDL_00035650	7-Aug-15	MPSKAT00008487
Hadron Industries LLC Roth 401(k) Plan	19-cv-01868 -LAK	30,520,158.00	4,618,000.00	Richard Markowitz	Recruiter	R. Markowitz Tr. at	Hadron Industries LLC	16-Jun-14	WH_MDL_00115036	16-Jul-14	WH_MDL_00000247	7-Aug-14	WH_MDL_00035654	7-Aug-15	WH_MDL_000055934

Plan	Case No.	Damages (DKK)	Damages (USD)	Participant	Relationship	Citation	LLC Name	LLC Formation Date	Citation	Plan Formation Date	Citation	First Solo Custodian Equity Purchase	Citation	Final Equity Purchase	Citation
						368:14 - 369:13									
Headsail Manufacturing LLC Roth 401(k) Plan	18-cv-07824 -LAK	70,639,565.72	11,061,000.00	Robert Klugman	Recruiter	N/A	Headsail Manufacturing LLC	16-Jun-14	WH_MDL_00340989	16-Jul-14	KLUGMAN0041003	7-Aug-14	WH_MDL_00035618	7-Aug-15	KLUGMAN00005343
Keystone Technologies LLC Roth 401(k) Plan	19-cv-01929 -LAK	47,936,417.00	7,253,000.00	Edwin Miller	J. van Merkensteijn's Friend	D. Zelman Tr. at 122:1-4	Keystone Technologies LLC	16-Jun-14	WH_MDL_00143279	18-Jul-14	KF_MDL_13225	7-Aug-14	WH_MDL_00035666	7-Aug-15	MPSKAT00008594
Limelight Global Productions LLC Roth 401(k) Plan	19-cv-01803 -LAK	27,901,401.00	4,221,000.00	Ronald Altbach	J. van Merkensteijn's Friend	R. Altbach Tr. at 27:19-22	Limelight Global Productions LLC	16-Jun-14	WH_MDL_00143277	21-Jul-14	KF_MDL_12619	7-Aug-14	WH_MDL_00035702	7-Aug-15	MPSKAT00008540
Loggerhead Services LLC Roth 401(k) Plan	19-cv-01806 -LAK	68,808,367.00	10,411,000.00	Perry Lerner	J. van Merkensteijn's Friend	P. Lerner Tr. at 40:20-23	Loggerhead Services LLC	16-Jun-14	WH_MDL_00029041	18-Jul-14	WH_MDL_00012226	7-Aug-14	WH_MDL_00020366	7-Aug-15	MPSKAT00008614
Monomer Industries LLC Roth 401(k) Plan	19-cv-01801 -LAK	49,738,020.00	7,526,000.00	Robin Jones	R. Markowitz's Sister	J. Markowitz Tr. at 48:13-15	Monomer Industries LLC	25-Aug-14	WH_MDL_00029045	2-Oct-14	MBJ_0010630	4-Dec-14	WH_MDL_00008999	7-Aug-15	MBJ_0027529
Omineca Pension Plan	19-cv-01894 -LAK	90,528,784.00	13,698,000.00	John van Merkensteijn	Recruiter	J. van Merkensteijn Tr. at 176:3-16, 177:21-23	Omineca LLC	7-Feb-14	WH_MDL_00143366	7-Feb-14	WH_MDL_00208969 at 9053; JHVM_0026064	7-Aug-14	JHVM_0003685	7-Aug-15	JHVM_0005764
PAB Facilities Global LLC Roth 401(k) Plan	19-cv-01808 -LAK	1,486,300.00	224,000.00	Perry Lerner	J. van Merkensteijn's Friend	P. Lerner Tr. at 40:20-23	PAB Facilities Global LLC	16-Jun-14	WH_MDL_00029100	18-Jul-14	WH_MDL_00012328	7-Aug-14	WH_MDL_00020358	7-Aug-15	MPSKAT00009048
Pinax Holdings LLC Roth 401(k) Plan	19-cv-01810 -LAK	29,131,518.00	4,408,000.00	Robin Jones	R. Markowitz's Sister	J. Markowitz Tr. at 48:13-15	Pinax Holdings LLC	25-Aug-14	WH_MDL_00029156	2-Oct-14	MBJ_0008131	4-Dec-14	WH_MDL_00009003	7-Aug-15	MPSKAT00009074
Plumrose Industries LLC Roth 401(k) Plan	19-cv-01809 -LAK	48,047,199.00	7,270,000.00	Ronald Altbach	J. van Merkensteijn's Friend	R. Altbach Tr. at 27:19-22	Plumrose Industries LLC	16-Jun-14	WH_MDL_00143276	21-Jul-14	KF_MDL_12821	7-Aug-14	WH_MDL_00035670	7-Aug-15	MPSKAT00008687

Plan	Case No.	Damages (DKK)	Damages (USD)	Participant	Relationship	Citation	LLC Name	LLC Formation Date	Citation	Plan Formation Date	Citation	First Solo Custodian Equity Purchase	Citation	Final Equity Purchase	Citation
Roadcraft Technologies LLC Roth 401(k) Plan	19-cv-01812-LAK	67,971,029.00	10,285,000.00	Ronald Altbach	J. van Merkensteijn's Friend	R. Altbach Tr. at 27:19-22	Roadcraft Technologies LLC	16-Jun-14	WH_MDL_00029159	21-Jul-14	WH_MDL_00024858	7-Aug-14	WH_MDL_00020362	7-Aug-15	MPSKAT00008759
Routt Capital Pension Plan	19-cv-01896-LAK	65,585,864.00	9,924,000.00	Richard Markowitz	Recruiter	R. Markowitz Tr. at 368:14 - 369:13	Routt Capital LLC	10-Feb-14	WH_MDL_000115030	19-Feb-14	WH_MDL_000208005	7-Aug-14	WH_MDL_00035694	7-Aug-15	MPSKAT00008126
Starfish Capital Management LLC Roth 401(k) Plan	19-cv-01871-LAK	1,436,630.00	217,000.00	John van Merkensteijn	Recruiter	J. van Merkensteijn n Tr. at 176:3-16, 177:21-23	Starfish Capital Management LLC	16-Jun-14	WH_MDL_000143282	22-Jul-14	WH_MDL_000339761	7-Aug-14	WH_MDL_00035678	7-Aug-14	WH_MDL_000035678
Sternway Logistics LLC Roth 401(k) Plan	19-cv-01813-LAK	28,790,461.00	4,356,000.00	Robin Jones	R. Markowitz's Sister	J. Markowitz Tr. at 48:13-15	Sternway Logistics LLC (NY)	25-Aug-14	WH_MDL_000029214	2-Oct-14	WH_MDL_000008656	4-Dec-14	WH_MDL_00009007	7-Aug-15	MPSKAT00008812
The Random Holdings 401(k) Plan	18-cv-07829-LAK	29,484,406.78	4,728,000.00	Robert Klugman	Recruiter	N/A	N/A - sponsored by R. Klugman in his individual capacity	N/A	N/A	14-May-14	KLUGMAN00004655	7-Aug-14	WH_MDL_00035622	7-Aug-15	KLUGMAN00001327
The Stor Capital Consulting LLC 401(k) Plan	18-cv-04434-LAK	26,951,956.45	4,319,000.00	Robert Klugman	Recruiter	N/A	Stor Capital Consulting LLC	17-Dec-08	KLUGMAN00011626; KLUGMAN00026201	14-May-14	MBJ_STOR-00004699	7-Aug-14	WH_MDL_000312769	7-Aug-15	MBJ_STOR-00002502
Trailing Edge Productions LLC Roth 401(k) Plan	19-cv-01815-LAK	28,206,357.00	4,268,000.00	Perry Lerner	J. van Merkensteijn's Friend	P. Lerner Tr. at 40:20-23	Trailing Edge Productions LLC	16-Jun-14	WH_MDL_000143272	18-Jul-14	WH_MDL_000012429	7-Aug-14	WH_MDL_00020354	7-Aug-15	MPSKAT00008839
True Wind Investments LLC Roth 401(k) Plan	19-cv-01818-LAK	29,333,040.00	4,438,000.00	Ronald Altbach	J. van Merkensteijn's Friend	R. Altbach Tr. at 27:19-22	True Wind Investments LLC	16-Jun-14	WH_MDL_000143275	21-Jul-14	MBJ_00010976	7-Aug-14	WH_MDL_00035686	7-Aug-15	MPSKAT00008866
Tumba Systems LLC Roth 401(k) Plan	19-cv-01931-LAK	28,217,450.00	4,269,000.00	Edwin Miller	J. van Merkensteijn's Friend	D. Zelman Tr. at 122:1-4	Tumba Systems LLC	16-Jun-14	WH_MDL_000127000	18-Jul-14	KF_MDL_13326	7-Aug-14	WH_MDL_00035698	7-Aug-15	MPSKAT00008893

Plan	Case No.	Damages (DKK)	Damages (USD)	Participant	Relationship	Citation	LLC Name	LLC Formation Date	Citation	Plan Formation Date	Citation	First Solo Custodian Equity Purchase	Citation	Final Equity Purchase	Citation
Vanderlee Technologies Pension Plan	19-cv-01918-LAK	96,371,922.00	14,582,000.00	David Zelman	J. van Merkensteijn's Friend	D. Zelman Tr. at 20:19-22	Vanderlee Technologies LLC	13-Feb-13	WH_MDL_00144094	Unknown	JHVM_0008757	7-Aug-14	WH_MDL_00035682	7-Aug-15	MPSKAT00008920
Voojo Productions LLC Roth 401(k) Plan	19-cv-01873-LAK	48,525,813.00	7,342,000.00	John van Merkensteijn	Recruiter	J. van Merkensteijn Tr. at 176:3-16, 177:21-23	Voojo Productions LLC	16-Jun-14	WH_MDL_00143283	22-Jul-14	WH_MDL_00340071	7-Aug-14	WH_MDL_00035674	7-Aug-15	JHVM_0003696

APPENDIX I

Plan	Case No.	Participant	Partnership Name	Plan Partner 1	Partner 1 Percentage	Plan Partner 2	Partner 2 Percentage	Plan Percentage	Partnership Agreement(s)
Albedo Management LLC Roth 401 (K) Plan	19-cv-01785	Joseph Herman	Albedo Management General Partnership	Routt Capital Trust (Richard Markowitz) changed to Avanix Management LLC (Richard Markowitz)	63.33%	RAK Investment Trust (Robert Klugman)	31.67%	5.00%	WH_MDL_00008217; KLUGMAN00060004
Ballast Ventures LLC Roth 401(K) Plan	19-cv-01781	Joseph Herman	Ballast Ventures General Partnership	Routt Capital Trust (Richard Markowitz) changed to Cavus Systems LLC (Richard Markowitz)	63.33%	RAK Investment Trust (Robert Klugman)	31.67%	5.00%	WH_MDL_00008227; KLUGMAN00060014
Bareroot Capital Investments LLC Roth 401(K) Plan	19-cv-01783	David Zelman	Bareroot Capital Investments General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	WH_MDL_00029366
Battu Holdings LLC Roth 401K Plan	19-cv-01794	David Zelman	Battu Holdings General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	MBJ_STOR-0002765
Cantata Industries LLC Roth 401(K) Plan	19-cv-01798	David Zelman	Cantata Industries General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_13708
Cedar Hill Capital Investments LLC Roth 401(K) Plan	19-cv-01922	Edwin Miller	Cedar Hill Capital Investments General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_11480
Crucible Ventures LLC Roth 401(K) Plan	19-cv-01800	Ronald Altbach	Crucible Ventures General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_13662
Dicot Technologies LLC Roth 401(K) Plan	19-cv-01788	David Zelman	Dicot Technologies General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_13718
Eclouge Industry LLC Roth 401(K) Plan	19-cv-01870	Perry Lerner	Eclouge Industry General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	WH_MDL_00012540
Fairlie Investments LLC Roth 401(K) Plan	19-cv-01791	Joseph Herman	Fairlie Investments General Partnership	Routt Capital Trust (Richard Markowitz) changed to Hadron Industries LLC (Richard Markowitz)	63.33%	RAK Investment Trust (Robert Klugman)	31.67%	5.00%	WH_MDL_00008237; KLUGMAN00058170
First Ascent Worldwide LLC Roth 401 (K) Plan	19-cv-01792	Perry Lerner	First Ascent Worldwide General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	WH_MDL_00012555
Fulcrum Productions LLC Roth 401 (K) Plan	19-cv-01928	Edwin Miller	Fulcrum Productions General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_11490
Green Scale Management LLC Roth 401 (K) Plan	19-cv-01926	Edwin Miller	Green Scale Management General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_00964
Keystone Technologies LLC Roth 401(K) Plan	19-cv-01929	Edwin Miller	Keystone Technologies General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	MBJ_0037511
Limelight Global Productions LLC Roth 401 (K) Plan	19-cv-01803	Ronald Altbach	Limelight Global Productions General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_13674
Loggerhead Services LLC Roth 401K Plan	19-cv-01806	Perry Lerner	Loggerhead Services General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	WH_MDL_00012567
Monomer Industries LLC Roth 401 (K) Plan	19-cv-01801	Robin Jones	Monomer Industries General Partnership	Omineca Trust (John van Merkensteijn)	63.33%	RAK Investment Trust (Robert Klugman)	31.67%	5.00%	WH_MDL_00029377
PAB Facilities Global LLC Roth 401(K) Plan	19-cv-01808	Perry Lerner	PAB Facilities Global General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	WH_MDL_00012587
Pinax Holdings LLC Roth 401(K) Plan	19-cv-01810	Robin Jones	Pinax Holdings General Partnership	Omineca Trust (John van Merkensteijn)	63.33%	RAK Investment Trust (Robert Klugman)	31.67%	5.00%	WH_MDL_00029389
Plumrose Industries LLC Roth 401K Plan	19-cv-01809	Ronald Altbach	Plumrose Industries General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_13685
Roadcraft Technologies LLC Roth 401(K) Plan	19-cv-01812	Ronald Altbach	Roadcraft Technologies General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	WH_MDL_00029401
Sternway Logistics LLC Roth 401(K) Plan	19-cv-01813	Robin Jones	Sternway Logistics General Partnership	Omineca Trust (John van Merkensteijn)	63.33%	RAK Investment Trust (Robert Klugman)	31.67%	5.00%	WH_MDL_00029420
Trailing Edge Productions LLC Roth 401(K) Plan	19-cv-01815	Perry Lerner	Trailing Edge Productions General Partnership	Routt Capital Trust (Richard Markowitz)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	WH_MDL_00012603
True Wind Investments LLC Roth 401(K) Plan	19-cv-01818	Ronald Altbach	True Wind Investments General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_13696
Tumba Systems LLC Roth 401(K) Plan	19-cv-01931	Edwin Miller	Tumba Systems General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_00954
Vanderlee Technologies Pension Plan	19-cv-01918	David Zelman	Vanderlee Technologies General Partnership	Omineca Trust (John van Merkensteijn)	70.00%	RAK Investment Trust (Robert Klugman)	25.00%	5.00%	KF_MDL_13728

APPENDIX J

Plan	Docket No.	Damages (DKK)	Damages (USD)	Submissions to SKAT	Participant	Relationship	Citation	LLC Name	LLC Formation Date	Citation	Plan or (if noted) Trust Formation Date	Citation	First Equity Purchase Date	Citation	Last Equity Purchase Date	Citation
Ackview Solo 401(k) Plan	18-cv-04900-LAK	36,780,544.11	5,722,000.00	SKAT_MDL_001_0068592; SKAT_MDL_001_040058; SKAT_MDL_001_040086	Sean Patrick Driscoll	Tradition Securities Employee	S. Driscoll Tr. 17:513	Ackview, LLC	2013-08-16	Public Records	2013-09-17 (Trust)	ACKVIEW00000208	2013-11-26	ELYSIUM-02508339; ELYSIUM-02510573	2014-08-07	ACKVIEW00000082
Blackrain Pegasus LLC Solo 401(k) Plan	18-cv-10119-LAK	35,495,780.09	5,558,000.00	SKAT_MDL_001_039809; SKAT_MDL_001_039838	Monica Bradley	Doston Bradley's Sister	D. Bradley Tr. 89:17-90:6, 123:8124:7	Blackrain Pegasus LLC	2013-08-14	BLACKRAIN00000323; BLACKRAIN00000325	2013-09-30	BLACKRAIN00000349	2013-11-26	ELYSIUM-02508521; ELYSIUM-02510431	2014-11-18	ELYSIUM-03539105
CSCC Capital Pension Plan	18-cv-09669-LAK	48,988,410.99	7,850,000.00	SKAT_MDL_001_036318	Scott Shapiro	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	CSCC Capital LLC	2014-10-14	CSCCAP00000544	2014-10-28	CSCCAP00000534	2014-11-27	CSCCAP00000183	2015-08-07	CSCCAP00000202
Delgado Fox LLC Solo 401(k) Plan	18-cv-10125-LAK	35,876,907.28	5,617,000.00	SKAT_MDL_001_039666; SKAT_MDL_001_039694	Bobbie Shelton Bradley	Doston Bradley's Mother	D. Bradley Tr. 89:17-90:6, 123:8124:7	Degado Fox LLC	2013-08-14	DELGADO00000275; DELGADO00000277	2013-09-30 (Trust)	DELGADO00000254	2013-11-26	ELYSIUM-02509338; ELYSIUM-02510583	2014-11-18	ELYSIUM-03539103
FiftyEightSixty LLC Solo 401(k) Plan	18-cv-10073-LAK	34,797,977.88	5,467,000.00	SKAT_MDL_001_040151; SKAT_MDL_001_040179	Danielle Taglianetti	Matthew Tucci's Ex Wife	M. Tucci Tr. 114:16-19	FiftyEightSixty LLC	2013-08-22	Public Records	2013-10-25	FIFTYEIGHTSIXTY00000061	2013-11-26	ELYSIUM-02508738; ELYSIUM-02510412	2014-11-18	ELYSIUM-03539130
Gyos 23 LLC Solo 401(k) Plan	18-cv-10122-LAK	34,785,245.28	5,447,000.00	SKAT_MDL_001_039523; SKAT_MDL_001_039532	Doston Bradley, Sr.	Doston Bradley's Father	D. Bradley Tr. 89:17-90:6, 123:8124:7	Gyos 23 LLC	2013-08-14	GYOS00000248; GYOS00000250	2013-09-30	GYOS00000286	2013-11-26	ELYSIUM-02508786; ELYSIUM-02510357	2014-11-18	ELYSIUM-03539166
JML Capital LLC 401(k) Plan	18-cv-10092-LAK	1,236,152.74	193,000.00	SKAT_MDL_001_037757	John LaChance	Joined Through Jonathan Godson & Robert Toffel	J. LaChance Tr. 33:1-24	JML Capital LLC	2014-07-17	JMLCAP00000091	2014-07-25	JMLCAP00000131	2014-08-07	JMLCAP00000041	2014-08-07	JMLCAP00000041
Natoli Management Pension Plan	18-cv-10093-LAK	1,254,148.11	196,000.00	SKAT_MDL_001_037913	Vincent James Natoli	Joined through Jonathan Godson	R. Lehman Tr. 335:20-25	Natoli Management LLC	Missing	Missing	Missing	Missing	2014-08-07	NATOLIMNG00000181	2014-08-07	NATOLIMNG00000181
Nova Fonta Trading LLC 401(k) Plan	18-cv-10094-LAK	1,276,053.34	199,000.00	SKAT_MDL_001_038013	Vincent James Natoli	Joined through Jonathan Godson	R. Lehman Tr. 335:20-25	Nova Fonta Trading LLC	Missing	Missing	2014-07-28	NOVAFONTA00000047	2014-08-07	ELYSIUM-03294222	2014-08-07	ELYSIUM-03294222
NYCATX LLC Solo 401(k) Plan	18-cv-04898-LAK	35,486,310.77	5,521,000.00	SKAT_MDL_001_039953; SKAT_MDL_001_039962	Carl Andrew Vergari	Tradition Securities Employee	C. Vergari Tr. 18:919:23	NYCATX LLC	2013-08-21	VERGARI00000023 (date refers to when operating agreement was entered into)	2013-09-26	NYCATAX00000282	2013-11-26	ELYSIUM-02508758; ELYSIUM-02510549	2014-08-07	NYCATAX00000107
OneZeroFive LLC Solo 401(k) Plan	18-cv-10080-LAK	34,832,122.96	5,676,000.00	SKAT_MDL_001_039236; SKAT_MDL_001_039264	Matthew Tucci	Recruiter	M. Tucci Tr. 114:20-118:17	OneZeroFive LLC	2013-08-13	ONEZEROFIVE00000319	2013-10-25	ONEZEROFIVE00000488	2013-11-26	ELYSIUM-02508357; ELYSIUM-02510544	2014-08-07	ONEZEROFIVE00002592
Pegasus Fox 23 LLC Solo Sanford Villa Pension Plan	18-cv-10126-LAK	37,329,941.02	5,845,000.00	SKAT_MDL_001_039379	Doston Bradley	Recruiter	D. Bradley Tr. 89:17-90:6, 123:8124:7	Pegasus Fox 23 LLC	2013-08-14	PEGFOX000000261	2013-08-26	PEGFOX000000295	2013-11-26	PEGFOX00000159	2014-11-18	ELYSIUM-03539123
The 78 Yorktown Pension Plan	18-cv-09565-LAK	4,186,315.96	657,000.00	SKAT_MDL_001_035423	Roger Lehman	Recruiter	R. Lehman Tr. 413:23-414:24	Sanford Villa Capital LLC	7/17/2014	SANFVIL00000458	2014-07-23	SANFVIL00000493	2014-08-07	SANFVIL00000199	2014-12-04	SANFVIL00000199
The 78 Yorktown Pension Plan	18-cv-09565-LAK	26,084,705.55	4,183,000.00	SKAT_MDL_001_00086471	Matthew D Patrick	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	78 Yorktown Street LLC	2014-11-20	78YORK00000506	12/4/2014 (Trust)	78YORK00000510	2015-02-25	78YORK00000060	2015-08-07	78YORK00000060
The Aria Pension Plan	18-cv-05147-LAK	27,489,386.20	4,304,000.00	SKAT_MDL_001_014786	Gavin Crescenzo	Recruiter	G. Crescenzo Tr. 41:21-24	Aria Capital LLC	2014-12-09	ARIA00000323	2014-12-19	ARIA00000328	2015-02-25	ARIA00000089	2015-08-07	ARIA00000089
The Aston Advisors LLC 401(k) Plan	18-cv-04770-LAK	31,360,752.78	4,909,000.00	SKAT_MDL_001_0008736	Roger Lehman	Recruiter	R. Lehman Tr. 413:23-414:24	Aston Advisors LLC	2014-07-17	ASTON00000440	7/23/2014 (Trust)	ASTON00000466	2014-08-07	ASTON00000150	2015-08-07	ASTON00000175
The Atlantic DHR 401(k) Plan	18-cv-04430-LAK	45,960,066.43	7,365,000.00	SKAT_MDL_001_036576	Joanne Bradley	Doston Bradley's Wife	D. Bradley Tr. 89:17-90:6, 123:8124:7	India Atlantic LLC	2014-11-24	ATLDHR00000315	2014-12-10	ATLDHR00000363	2015-02-25	ATLDHR00000109	2015-08-07	ATLDHR00000109
The Balmoral Management LLC 401(k) Pension Plan	18-cv-10067-LAK	33,170,063.29	5,192,000.00	SKAT_MDL_001_036910	John LaChance	Joined Through Jonathan Godson & Robert Toffel	J. LaChance Tr. 33:1-24	Balmoral Management LLC	2014-01-14	BALMORAL00000203	2014-02-06 (Trust)	BALMORAL00000380	2014-02-26	BALMORAL00000057	2014-08-07	BALMORAL00000057
The Beech Tree Partners 401(k) Plan	18-cv-10069-LAK	71,134,822.84	11,176,000.00	SKAT_MDL_001_00088212	Danielle Tucci	Matthew Tucci's Ex Wife	M. Tucci Tr. 114:16-19	Beech Tree Partners LLC	2014-08-29	BEECHTREE00000356	2014-09-30	BEECHTREE00000357; BEECHTREE00000411; BEECHTREE00000459	2014-11-27	BEECHTREE00000088	2015-08-07	BEECHTREE00000107
The Belforte Pension Plan	18-cv-05150-LAK	67,515,881.97	10,572,000.00	SKAT_MDL_001_00086366	Gavin Crescenzo	Recruiter	G. Crescenzo Tr. 41:21-24	Belforte Capital LLC	2014-11-10	BELFORTE00000282	2014-12-03	BELFORTE00000304	2015-02-25	BELFORTE00000076	2015-08-07	BELFORTE00000076
The Bella Consultants Pension Plan	18-cv-10136-LAK	26,710,966.86	4,286,000.00	SKAT_MDL_001_00085332	Anthony Miles Sinclair	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Bella Consultants LLC	2014-11-06	BELLA00000302	2014-11-25	BELLA00000356	2015-02-25	BELLA00000073	2015-08-07	BELLA00000073
The Blackbird 401(k) Plan	18-cv-10070-LAK	46,318,154.74	7,277,000.00	SKAT_MDL_001_00086807	Danielle Tucci	Matthew Tucci's Ex Wife	M. Tucci Tr. 114:16-19	Blackbird Associates LLC	2014-11-21	BLACKBIRD00000280	2014-12-03	BLACKBIRD00000323; BLACKBIRD00000369; BLACKBIRD00000425	2015-02-25	BLACKBIRD00000089	2015-08-07	BLACKBIRD00000089
The Bradley London Pension Plan	18-cv-04047-LAK	69,217,447.21	11,135,000.00	SKAT_MDL_001_00090961	Doston Bradley	Recruiter	D. Bradley Tr. 89:17-90:6, 123:8124:7	London Rocco LLC	2014-09-03	BRADLOND00000425	2014-09-26	BRADLOND00000394	2014-11-27	BRADLOND00001131	2015-08-07	BRADLOND00000137
The Bravos Advisors 401(k) Plan	18-cv-05151-LAK	26,780,669.97	4,193,000.00	SKAT_MDL_001_00084414	Bradley Crescenzo	Gavin Crescenzo's Brother	G. Crescenzo Tr. 41:21-24	Bravos Advisors LLC	2014-12-10	BRAVOS00000286	2014-12-19	BRAVOS00000309	2015-02-25	BRAVOS00000083	2015-08-07	BRAVOS00000083
The Busby Black 401(k) Plan	18-cv-04522-LAK	26,502,408.17	4,191,000.00	SKAT_MDL_001_00084127	Monica Bradley	Doston Bradley's Sister	D. Bradley Tr. 89:17-90:6, 123:8124:7	India Black LLC	2014-11-24	BUSBLK00000328	2014-12-10	BUSBLK00000568	2015-02-25	BUSBLK00000104	2015-08-07	BUSBLK00000104

Plan	Docket No.	Damages (DKK)	Damages (USD)	Submissions to SKAT	Participant	Relationship	Citation	LLC Name	LLC Formation Date	Citation	Plan or (if noted) Trust Formation Date	Citation	First Equity Purchase Date	Citation	Last Equity Purchase Date	Citation
The Cambridge Town Line Pension Plan	18-cv-09570-LAK	67,731,272.20	10,902,000.00	SKAT_MDL_001_00084520	Matthew D Patrick	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Cambridge Town Line LLC	2014-11-20	CAMBTOWN00000329	2014-12-04	CAMBTOWN00000388	2015-02-25	CAMBTOWN00000109	2015-08-07	CAMBTOWN00000109
The Canada Rock LLC 401(k) Plan	18-cv-04531-LAK	46,713,437.97	7,387,000.00	SKAT_MDL_001_00085671	Monica Bradley	Doston Bradley's Sister	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Canada Rock LLC	2014-11-24	CANROCK00000285	2014-12-10	CANROCK00000304	2015-02-25	CANROCK00000089	2015-08-07	CANROCK00000089
The Cardinal Consulting Pension Plan	18-cv-10028-LAK	25,810,868.69	4,088,000.00	SKAT_MDL_001_00088753	Francine Taglianetti	Matthew Tucci's Mother-In-Law	M. Tucci Tr. 117:15	Cardinal Consulting LLC	2014-11-21	CARDINAL00000424	2014-12-03	CARDINAL00000287; CARDINAL00000333; CARDINAL00000389	2015-02-25	CARDINAL00000067	2015-08-07	CARDINAL00000067
The Chambers Property Management 401(k) Plan	18-cv-10071-LAK	28,408,022.94	4,463,000.00	SKAT_MDL_001_035911	Jeffrey C Chambers	Matthew Tucci's Brother-In-Law	M. Tucci Tr. 117:23-24	Chambers Property Management LLC	2014-08-29	CHAMBPROP00000445	2014-10-03	CHAMBPROP00000308; CHAMBPROP00000354; CHAMBPROP00000402	2014-11-27	CHAMBPROP0000008	2015-08-07	CHAMBPROP00000100
The Costello Advisors Pension Plan	18-cv-05158-LAK	27,167,553.49	4,254,000.00	SKAT_MDL_001_00085151	Gavin Crescenzo	Recruiter	G. Crescenzo Tr. 41:21-24	Costello Advisors LLC	2014-11-07	COSTELLO00000318	2014-12-03	COSTELLO00000338	2015-02-25	COSTELLO00000092	2015-08-07	COSTELLO00000092
The Crow Associates Pension Plan	18-cv-10031-LAK	66,346,883.19	10,673,000.00	SKAT_MDL_001_012682	Matthew Tucci	Recruiter	M. Tucci Tr. 114:20-118:17	Crow Associates LLC	2014-11-21	CROW00000248	2014-12-03	CROW00000282	2015-02-25	CROW00000036	2015-08-07	CROW00000036
The Diamond Scott Capital Pension Plan	18-cv-09587-LAK	28,561,193.57	4,595,000.00	SKAT_MDL_001_013218	Scott Shapiro	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Diamond Scott Capital LLC	2014-10-14	DIAMSCOTT00000594	10/28/2014 (Trust)	DIAMSCOTT00000551	2014-11-27	DIAMSCOTT00000096	2015-08-07	DIAMSCOTT00000184
The Dink 14 LLC 401(k) Plan	18-cv-10091-LAK	33,437,230.30	5,449,000.00	SKAT_MDL_001_036964	Vincent James Natoli	Joined through Jonathan Godson	R. Lehman Tr. 335:20-25	Dink14 LLC	2014-01-15	DINK14LLC00000228	2014-01-15 (Trust)	DINK14LLC00000207	2014-02-26	ELYSIUM-02789554	2014-11-18	ELYSIUM-03539308
The DMR Pension Plan	18-cv-04049-LAK	49,974,567.55	8,039,000.00	SKAT_MDL_001_00087013	Doston Bradley	Recruiter	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Miami Rocco LLC	2014-09-03	DMR00000349	2014-09-26	DMR00000369; DMR00000506	2014-11-27	DMR00000153	2015-08-07	DMR000000116
The Dosmon BLY Pension Plan	18-cv-05045-LAK	26,337,572.02	4,124,000.00	SKAT_MDL_001_00088646	Joanne Bradley	Doston Bradley's Wife	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Texas India LLC	2014-11-24	DOSMBLY00000304	2014-12-10	DOSMBLY00000323	2015-02-25	DOSMBLY00000085	2015-08-07	DOSMBLY00000085
The Egret Associates LLC 401(k) Plan	18-cv-10030-LAK	25,530,887.55	4,108,000.00	SKAT_MDL_001_021770	Hayden Guli	Matthew Tucci's Stepson	M. Tucci Tr. 117:9 11	Egret Associates LLC	2014-11-21	EGRET00000281	2014-12-03	EGRET00000314; EGRET00000361; EGRET00000417	2015-02-25	EGRET00000049	2015-08-07	EGRET00000049
The Eskin Pension Plan	18-cv-05164-LAK	46,857,263.32	7,337,000.00	SKAT_MDL_001_00085776	Cynthia Crescenzo	Gavin Crescenzo's Mother	G. Crescenzo Tr. 41:21-24	Eskin Management LLC	2014-12-17	ESKIN00000285	2014-12-31	ESKIN00000349	2015-02-25	ESKIN00000098	2015-08-07	ESKIN00000098
The Everything Clean LLC 401(k) Plan	18-cv-10063-LAK	29,070,165.58	4,658,000.00	SKAT_MDL_001_035780	Jodie Rockafellow	Danielle Tucci's friend	M. Tucci Tr. 117:25-118:2	Everything Clean LLC	2014-08-29	EVRYCLEAN00000353	2014-10-03	EVRYCLEAN00000354; EVRYCLEAN00000409; EVRYCLEAN00000452	2014-11-27	EVRYCLEAN0000009	2015-08-07	EVRYCLEAN00000115
The Fieldcrest Pension Plan	18-cv-05180-LAK	26,014,756.04	4,073,000.00	SKAT_MDL_001_00083690	Cynthia Crescenzo	Gavin Crescenzo's Mother	G. Crescenzo Tr. 41:21-24	Fieldcrest Advisors LLC	2014-12-18	FIELDCREST00000295	2014-12-31	FIELDCREST00000358	2015-02-25	FIELDCREST0000008	2015-08-07	FIELDCREST00000086
The FWC Capital LLC Pension Plan	18-cv-10098-LAK	70,930,261.03	11,411,000.00	SKAT_MDL_001_00082801	Roger Lehman	Recruiter	R. Lehman Tr. 413:23-414:24	The FWC Capital LLC	2014-10-13	FWCCAP00000564	2014-10-22	FWCCAP00000536	2014-11-27	FWCCAP000001033	2015-08-07	FWCCAP00000194
The Green Group Site Pension Plan	18-cv-10134-LAK	67,297,749.10	10,832,000.00	SKAT_MDL_001_00083905	Anthony Miles Sinclair	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	The Green Group Site LLC	2014-11-05	GREENGS00000334	2014-11-18	GREENGS00000329	2015-02-25	GREENGS00000103	2015-08-07	GREENGS00000103
The Hawk Group Pension Plan	18-cv-10074-LAK	26,039,273.63	4,091,000.00	SKAT_MDL_001_036459	Matthew Tucci	Recruiter	M. Tucci Tr. 114:20-118:17	Hawk Associates LLC	Nov. 2014	HAWK00000276; HAWK00000310	2014-12-03	HAWK00000311	2015-03-09	HAWK00000073	2015-08-07	HAWK00000073
The Heron Advisors Pension Plan	18-cv-10032-LAK	46,535,616.03	7,488,500.00	SKAT_MDL_001_013024	Hayden Guli	Matthew Tucci's Stepson	M. Tucci Tr. 117:9 11	Heron Advisors LLC	2014-11-21	HERON00000261	2014-12-03	HERON00000303; HERON00000349; HERON00000405	2015-02-25	HERON00000067	2015-08-07	HERON00000067
The Hibiscus Partners LLC 401(k) Plan	18-cv-10076-LAK	48,432,716.63	7,609,000.00	SKAT_MDL_001_00089740	Danielle Tucci	Matthew Tucci's Ex Wife	M. Tucci Tr. 114:16-19	Hibiscus Partners LLC	2014-08-29	HIBISCUS00000424	2014-09-26	HIBISCUS00000325; HIBISCUS00000382; HIBISCUS00000426	2014-11-27	HIBISCUS00000089	2015-08-07	HIBISCUS00000108
The Hoboken Advisors LLC 401(k) Plan	18-cv-10035-LAK	49,570,384.17	7,974,000.00	SKAT_MDL_001_00089617	Stacey Lopis	Matthew Tucci's Brother's Girlfriend	M. Tucci Tr. 118:4 5	Hoboken Advisors LLC	2014-08-29	HOBOKEN00000324	2014-10-03	HOBOKEN00000191; HOBOKEN00000240; HOBOKEN00000283	2014-11-27	HOBOKEN00000905	2015-08-07	HOBOKEN00000122
The Hotel Fromance Pension Plan	18-cv-09588-LAK	48,073,959.43	7,734,000.00	SKAT_MDL_001_00086580	Matthew D Patrick	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Hotel Fromance LLC	2014-11-20	HOTFROM00000465	2014-12-04	HOTFROM00000330	2015-02-25	HOTFROM00000119	2015-08-07	HOTFROM00000119
The Houston Rocco LLC 401(k) Plan	18-cv-04050-LAK	71,875,085.27	11,561,000.00	SKAT_MDL_001_00085881	Doston Bradley	Recruiter	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Houston Rocco LLC	2014-09-03	HOUSTROC00000425	2014-09-26	HOUSTROC00000396	2014-11-27	HOUSTROC00000114	2015-08-07	HOUSTROC00000130
The India Bombay LLC 401(k) Pension Plan	18-cv-05057-LAK	26,421,152.86	4,137,000.00	SKAT_MDL_001_000891; SKAT_MDL_001_00083560	Joanne Bradley	Doston Bradley's Wife	D. Bradley Tr. 89:17-90:6, 123:8 124:7	India Bombay LLC	2014-11-24	INDBOMB00000314	2014-12-10	INDBOMB00000547	2015-02-25	INDBOMB00000109	2015-08-07	INDBOMB00000109
The ISDB Pension Plan	18-cv-04536-LAK	27,085,142.50	4,283,000.00	SKAT_MDL_001_013127; SKAT_MDL_001_019662	Monica Bradley	Doston Bradley's Sister	D. Bradley Tr. 89:17-90:6, 123:8 124:7	India Shanghai LLC	2014-11-24	ISDB00000352	2014-12-10	ISDB00000590	2015-02-25	ISDB00000123	2015-08-07	ISDB00000123
The Jayfran Blue Pension Plan	18-cv-10036-LAK	26,013,436.82	4,186,000.00	SKAT_MDL_001_00087140	Francine Taglianetti	Matthew Tucci's Mother-In-Law	M. Tucci Tr. 117:15	Blue Jay Associates LLC	2014-11-21	JAYFRAN00000274	2014-12-03	JAYFRAN00000307; JAYFRAN00000353; JAYFRAN00000409	2015-02-25	JAYFRAN00000039	2015-08-07	JAYFRAN00000039

Plan	Docket No.	Damages (DKK)	Damages (USD)	Submissions to SKAT	Participant	Relationship	Citation	LLC Name	LLC Formation Date	Citation	Plan or (if noted) Trust Formation Date	Citation	First Equity Purchase Date	Citation	Last Equity Purchase Date	Citation
The Joanne E. Bradley Solo 401(k) Plan	18-cv-10124-LAK	32,660,029.07	5,114,000.00	SKAT_MDL_001_040352	Joanne Bradley	Doston Bradley's Wife	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Rocco India One LLC	2013-11-07	JEBradley00000359; JEBradley00000361	2013-12-20	JEBradley00000183	2014-02-26	JEBradley00000071	2014-08-07	JEBradley00000071
The JT Health Consulting LLC 401(k) Plan	18-cv-10039-LAK	49,902,633.96	8,032,000.00	SKAT_MDL_001_00084232	Jana Taglianetti	Danielle Tucci's Cousin	M. Tucci Tr. 117:19-22	JT Health Consulting LLC	2014-08-29	JTHealth00000415	2014-10-03	JTHealth00000278; JTHealth00000321; JTHealth00000357	2014-11-27	JTHealth00000969	2015-08-07	JTHealth00000079
The Jump Group LLC 401(k) Plan	18-cv-10064-LAK	70,955,238.43	11,371,000.00	SKAT_MDL_001_036031	Joseph Whalen	Matthew Tucci's Uncle	M. Tucci Tr. 118:2 3	Jump Group LLC	2014-08-29	JUMP00000314	2014-10-03	JUMP00000315; JUMP00000363; JUMP00000404	2014-11-27	JUMP00000080	2015-08-07	JUMP00000099
The KASV Group Pension Plan	18-cv-05309-LAK	46,791,552.78	7,327,000.00	SKAT_MDL_001_00089510	Svetlin Petrov Petkov	Joined Through Jonathan Godson & Robert Toffel	S. Petkov Tr. 26:19-25	KASV Consulting LLC	2015-01-13	KASV00000301	2015-01-26	KASV00000419	2015-02-25	KASV00000095	2015-08-07	KASV00000095
The Kodiak Capital Pension Plan	18-cv-05185-LAK	45,492,502.23	7,123,000.00	SKAT_MDL_001_00087839	Bradley Crescenzo	Gavin Crescenzo's Brother	G. Crescenzo Tr. 41:21-24	Kodiak Capital LLC	2014-12-11	KODIAK00000294	2014-12-19	KODIAK00000297	2015-02-25	KODIAK00000097	2015-08-07	KODIAK00000097
The Krabi Holdings LLC 401(k) Plan	18-cv-05307-LAK	33,956,415.24	5,317,000.00	SKAT_MDL_001_037562	Gavin Crescenzo	Recruiter	G. Crescenzo Tr. 41:21-24	Krabi Holdings LLC	2014-01-30	KRABI00000359	2/9/2014 (Trust)	KRABI00000172	41696	ELYSIUM-02789560	2014-08-07	ELYSIUM-02393452
The Kyber Pension Plan	18-cv-05186-LAK	46,282,964.17	7,247,000.00	SKAT_MDL_001_036696	Bradley Crescenzo	Gavin Crescenzo's Brother	G. Crescenzo Tr. 41:21-24	Kyber Capital LLC	2014-12-11	KYBER00000283	2014-12-19	KYBER00000304	2015-02-25	KYBER00000095	2015-08-07	KYBER00000095
The Lakeview Advisors 401(k) Plan	18-cv-10049-LAK	50,876,633.78	8,187,000.00	SKAT_MDL_001_00082685	Matthew Tucci	Recruiter	M. Tucci Tr. 114:20-118:17	Lakeview Advisors LLC	2014-08-29	LAKEVIEW00000391	2014-09-30	LAKEVIEW00000308; LAKEVIEW00000339; LAKEVIEW00000411	2014-11-27	LAKEVIEW00000072	2015-08-07	LAKEVIEW00000091
The LBR Capital Pension Plan	18-cv-04052-LAK	28,571,488.97	4,597,700.00	SKAT_MDL_001_00089378	Doston Bradley	Recruiter	D. Bradley Tr. 89:17-90:6, 123:8 124:7	London India LLC	2014-09-03	LBR00000391	2014-09-26	LBR00000410; LBR00000547	2014-11-27	LBR00000412	2015-08-07	LBR00000126
The Lerici Capital Pension Plan	18-cv-05188-LAK	47,661,301.94	7,463,000.00	SKAT_MDL_001_00084765	Gavin Crescenzo	Recruiter	G. Crescenzo Tr. 41:21-24	Lerici Capital LLC	2014-11-07	LEIRICI00000298	2014-12-03	LEIRICI00000322	2015-02-25	LEIRICI00000087	2015-08-07	LEIRICI00000087
The Ludlow Holdings 401(k) Plan	18-cv-05189-LAK	67,610,606.38	10,587,000.00	SKAT_MDL_001_00086697	Cynthia Crescenzo	Gavin Crescenzo's Mother	G. Crescenzo Tr. 41:21-24	Ludlow Holdings LLC	2014-12-18	LUDLOW00000300	2014-12-31	LUDLOW00000364	2015-02-25	LUDLOW00000085	2015-08-07	LUDLOW00000085
The M2F Wellness LLC 401(k) Plan	18-cv-04890-LAK	32,077,219.95	4,990,000.00	SKAT_MDL_001_037185	Maryann Protass	Mitchell Protass's Wife	Mitchell Protass Tr. 169:5-12	M2F Wellness LLC	2014-01-16	PROTASS00000041	2014-02-16 (Trust)	M2F00000146	2014-02-26	M2F00000349	2014-05-08	M2F00000008
The Maple Advisors LLC 401(k) Plan	18-cv-10077-LAK	29,310,356.78	4,605,000.00	SKAT_MDL_001_00083029	Danielle Tucci	Matthew Tucci's Ex Wife	M. Tucci Tr. 114:16-19	Maple Advisors LLC	2014-08-29	MAPLE00000448	2014-09-26	MAPLE00000360; MAPLE00000405; MAPLE00000468	2014-11-27	MAPLE00000112	2015-08-07	MAPLE00000120
The Monin Amper Pension Plan	18-cv-04538-LAK	68,085,289.01	10,767,000.00	SKAT_MDL_001_00086261	Monica Bradley	Doston Bradley's Sister	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Dutch India LLC	2014-11-24	MONAMP00000329	2014-12-10	MONAMP00000560	2015-02-25	MONAMP00000105	2015-08-07	MONAMP00000105
The Mountain Air LLC 401(k) Plan	18-cv-09589-LAK	70,290,716.36	11,309,000.00	SKAT_MDL_001_012283	Scott Shapiro	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Mountain Air LLC	2014-10-14	MNTAIR00000526	2014-10-28	MNTAIR00000380; MNTAIR00000390; MNTAIR00000423; MNTAIR00000460; MNTAIR00000502	2014-11-27	MNTAIR00000986	2015-08-07	MNTAIR00000178
The MPQ Holdings LLC 401(k) Plan	18-cv-04892-LAK	30,802,465.97	4,792,000.00	SKAT_MDL_001_037147	Mitchell Owen Protass	Joined Through Jonathan Godson & Robert Toffel	Mitchell Protass Tr. 38:4-38:18	MPQ Holdings LLC	2014-01-17	MPQ00000124; MPQ00000151	2014-01-30 (Trust)	MPQ00000129	2014-02-26	MPQ00000480	2014-05-08	MPQ00000008
The Mueller Investments Pension Plan	18-cv-10135-LAK	67,700,692.19	10,897,000.00	SKAT_MDL_001_018601	Anthony Miles Sinclair	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Mueller Investments LLC	2014-11-05	MUELLER00000349; MUELLER00000356	2014-11-18	MUELLER00000379	2015-02-25	MUELLER00000108	2015-08-07	MUELLER00000108
The NYC Stanismore Pension Plan	18-cv-04541-LAK	25,592,310.32	4,047,000.00	SKAT_MDL_001_00084022	Joanne Bradley	Doston Bradley's Wife	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Roccy NYC LLC	2014-11-24	NYCSTAN00000313	2014-12-10	NYCSTAN00000339	2015-02-25	NYCSTAN00000100	2015-08-07	NYCSTAN00000100
The Oak Tree One 401(k) Plan	18-cv-10123-LAK	26,413,101.33	4,136,000.00	SKAT_MDL_001_016654	Monica Bradley	Doston Bradley's Sister	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Oak Tree One LLC	2014-11-21	OAKTREEONE00000501	2014-12-10	OAKTREEONE00000359	2015-03-09	OAKTREEONE00000111	2015-08-07	OAKTREEONE00000111
The Oaks Group Pension Plan	18-cv-10065-LAK	69,805,929.68	11,179,000.00	SKAT_MDL_001_035653	Matthew Tucci	Recruiter	M. Tucci Tr. 114:20-118:17	The Oaks Group LLC	2014-08-29	OAKS00000401	2014-09-30	OAKS00000403; OAKS00000330	2014-11-27	OAKS00000066	2015-08-07	OAKS00000085
The Osprey Assocs. LLC 401(k) Plan	18-cv-10060-LAK	66,905,951.27	10,763,000.00	SKAT_MDL_001_00086004	Hayden Guli	Matthew Tucci's Stepson	M. Tucci Tr. 117:9 11	Osprey Associates LLC	2014-11-21	OSPREY00000277	2014-12-03	OSPREY00000506; OSPREY00000608	2015-02-25	OSPREY00000054	2015-08-07	OSPREY00000054
The Patrick Partners Conglomerate Pension Plan	18-cv-09668-LAK	66,201,488.01	10,609,000.00	SKAT_MDL_001_00082929	Matthew D Patrick	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Patrick Partners Conglomerate LLC	2014-11-20	PATPART00000314; PATPART00000363	2014-12-04	PATPART00000368	2015-02-25	PATPART00000102	2015-08-07	PATPART00000102
The Petkov Management LLC 401(k) Plan	18-cv-05300-LAK	35,480,448.55	5,555,000.00	SKAT_MDL_001_037349	Svetlin Petrov Petkov	Joined Through Jonathan Godson & Robert Toffel	S. Petkov Tr. 26:19-25	Petkov Management LLC	2014-01-22	PETKMAN00000191; PETKMAN00000217	2014-02-04 (Trust)	PETKMAN00000196; PETKPART00000364; PETKPART00000374; PETKPART00000407; PETKPART00000444; PETKPART00000486	2014-02-26	PETKMAN00000745	2014-08-07	PETKMAN00000030
The Petkov Partners Pension Plan	18-cv-05299-LAK	26,956,372.92	4,221,000.00	SKAT_MDL_001_00084895	Svetlin Petrov Petkov	Joined Through Jonathan Godson & Robert Toffel	S. Petkov Tr. 26:19-25	Petkov Partners LLC	2015-01-13	PETKPART00000343; PETKPART00000360	2015-01-27	PETKPART00000486	2015-02-25	PETKPART00000103	2015-08-07	PETKPART00000103

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The Proper Pacific LLC 401(k) Plan	18-cv-04051-LAK	29,035,894.47	4,671,000.00	SKAT_MDL_001_00088872	Doston Bradley	Recruiter	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Pacific India LLC	2014-09-03	PROPPACIF00000375	2014-09-26	PROPPACIF00000346	2014-11-27	PROPPACIF00000955	2015-08-07	PROPPACIF00000113
The RDL Consulting Group LLC Pension Plan	18-cv-10099-LAK	48,813,989.34	7,669,000.00	SKAT_MDL_001_00085453	Roger Lehman	Recruiter	R. Lehman Tr. 413:23-414:24	The RDL Consulting Group LLC	2014-10-13	RDLCON00000628	2014-10-22	RDLCON00000415; RDLCON00000425; RDLCON00000458; RDLCON00000495; RDLCON00000537	2014-11-27	RDLCON00001138	2015-08-07	RDLCON00000187
The Regoleth Pension Plan	18-cv-05190-LAK	26,672,152.66	4,176,000.00	SKAT_MDL_001_00087613	Bradley Crescenzo	Gavin Crescenzo's Brother	G. Crescenzo Tr. 41:21-24	Regoleth Management LLC	2014-12-09	REGOLETH00000448	2014-12-19	REGOLETH00000317	2015-02-25	REGOLETH00000096	2015-08-07	REGOLETH00000096
The Robin Daniel Pension Plan	18-cv-10096-LAK	27,519,764.40	4,323,000.00	SKAT_MDL_001_00089269	Danielle Tucci	Matthew Tucci's Ex Wife	M. Tucci Tr. 114:16-19	Robin Associates LLC	2014-11-21	ROBINDAN00000331	2014-12-03	ROBINDAN00000375; ROBINDAN00000477	2015-02-25	ROBINDAN00000008	2015-08-07	ROBINDAN00000088
The Saba Capital LLC 401(k) Plan	18-cv-05192-LAK	25,390,906.75	3,975,000.00	SKAT_MDL_001_00087257	Gavin Crescenzo	Recruiter	G. Crescenzo Tr. 41:21-24	Saba Capital LLC	11/13/2009 (NYC); 12/9/2014 (MO)	SABA00000284; SABA00000297	2014-12-20	SABA00000303	2015-02-25	SABA00000072	2015-08-07	SABA00000072
The Sandpiper Pension Plan	18-cv-10061-LAK	26,524,306.95	4,269,000.00	SKAT_MDL_001_00083795	Hayden Guli	Matthew Tucci's Stepson	M. Tucci Tr. 117:9 11	Sandpiper Associates LLC	2014-11-21	SANDPIPER00000312	2014-12-03	SANDPIPER00000355; SANDPIPER00000457	2015-03-09	SANDPIPER00000071	2015-08-07	SANDPIPER00000071
The Sea Bright Advisors LLC 401(k) Plan	18-cv-10082-LAK	29,570,665.64	4,646,000.00	SKAT_MDL_001_00089153	William Bahrs	Matthew Tucci's Friend	M. Tucci Tr. 118:8 9	Sea Bright Advisors LLC	2014-08-29	SEABRIGHT00000551	2014-10-03	SEABRIGHT00000571; SEABRIGHT00000516	2014-11-27	SEABRIGHT00001042	2015-08-07	SEABRIGHT00000097
The Sector 230 LLC 401(k) Plan	18-cv-04771-LAK	31,913,412.37	4,965,000.00	SKAT_MDL_001_037445	Paul Jepsen	Joined through Jonathan Godson	R. Lehman Tr. 357:1-4	Sector 230, LLC	2014-02-06	SEC230_00000140; SEC230_00000168	2014-02-10 (Trust)	SEC230_00000146	2014-02-26	SEC230_00000520	2014-08-07	SEC230_00000028
The Shapiro Blue Management LLC 401(k) Plan	18-cv-09666-LAK	49,549,843.55	7,940,000.00	SKAT_MDL_001_036162	Scott Shapiro	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Shapiro Blue Management LLC	2014-10-15	SHAPBLUM00000518	2014-10-28	SHAPBLUM00000364; SHAPBLUM00000374; SHAPBLUM00000407; SHAPBLUM00000444; SHAPBLUM00000486	2014-11-27	SHAPBLUM00001029	2015-08-07	SHAPBLUM00000155
The Sinclair Pension Plan	18-cv-10133-LAK	26,434,971.03	4,180,000.00	SKAT_MDL_001_00087504	Anthony Miles Sinclair	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Sinclair Consultants LLC	2014-11-05	LEHMAN00027003	2014-11-18	SINCLAIRE00000332	2015-02-25	SINCLAIRE00000104	2015-08-07	SINCLAIRE00000104
The SKSL LLC Pension Plan	18-cv-09590-LAK	28,644,884.21	4,608,000.00	SKAT_MDL_001_00088466	Scott Shapiro	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	SKSL LLC	2014-10-14	SKSLLLC00000565	2014-10-28	SKSLLLC00000391; SKSLLLC00000401; SKSLLLC00000434; SKSLLLC00000471; SKSLLLC00000513	2014-11-27	SKSLLLC00000982	2015-08-07	SKSLLLC00000185
The Skybax LLC 401(k) Plan	18-cv-10095-LAK	33,416,955.41	5,232,000.00	SKAT_MDL_001_037224	Bradley Crescenzo	Gavin Crescenzo's Brother	G. Crescenzo Tr. 41:21-24	Skybax LLC	2014-01-30	SKYBAX00000140; SKYBAX00000168	Feb. 2014	SKYBAX00000146	2014-02-26	SKYBAX00000032	2014-08-07	SKYBAX00000036
The Snow Hill Pension Plan	18-cv-09650-LAK	29,281,805.97	4,711,000.00	SKAT_MDL_001_00089022	Scott Shapiro	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Snowhill Investments LLC	2014-10-14	SNOWHILL00000600	2014-10-28	SNOWHILL00000422; SNOWHILL00000432; SNOWHILL00000465; SNOWHILL00000502; SNOWHILL00000544	2014-11-27	SNOWHILL00001015	2015-08-07	SNOWHILL00000162
The SPKK LLC 401(k) Plan	18-cv-05308-LAK	1,478,160.09	231,000.00	SKAT_MDL_001_037835	Svetlin Petrov Petkov	Joined Through Jonathan Godson & Robert Toffel	S. Petkov Tr. 26:19-25	Stark Holdings LLC	2014-07-17	SPKK00000090	2014-07-23	SPKK000000112; SPKK00000140; SPKK00000174; SPKK00000211	2014-08-07	SPKK00000065	2014-08-07	SPKK00000065
The Stark Pension Plan	18-cv-05194-LAK	68,842,490.55	10,780,000.00	SKAT_MDL_001_012792	Bradley Crescenzo	Gavin Crescenzo's Brother	G. Crescenzo Tr. 41:21-24	Stark Holdings LLC	2014-12-09	STARK00000305	2014-12-19	STARK00000313	2015-02-25	STARK00000079	2015-08-07	STARK00000079
The SVP 401(k) Plan	18-cv-05305-LAK	25,752,508.26	4,032,000.00	SKAT_MDL_001_027929	Svetlin Petrov Petkov	Joined Through Jonathan Godson & Robert Toffel	S. Petkov Tr. 26:19-25	SVP Advisors LLC	2015-01-13	SVP00000316; SVP00000338	2015-01-26	SVP00000342; SVP00000352; SVP00000385; SVP00000422; SVP00000464	2015-02-25	SVP00000086	2015-08-07	SVP00000086
The Tag Realty Advisors LLC 401(k) Plan	18-cv-10083-LAK	69,962,352.81	10,992,000.00	SKAT_MDL_001_00083255	Francine Taglianetti	Matthew Tucci's Mother-In-Law	M. Tucci Tr. 117:1 5	Tag Realty Advisors LLC	2014-08-29	TAGRLTY00000571	2014-10-03	TAGRLTY00000434; TAGRLTY00000483; TAGRLTY00000536	2014-11-27	TAGRLTY00000135	2015-08-07	TAGRLTY00000155
The Texas Rocco LLC 401(k) Plan	18-cv-04543-LAK	67,518,405.79	10,677,000.00	SKAT_MDL_001_00086111	Joanne Bradley	Doston Bradley's Wife	D. Bradley Tr. 89:17-90:6, 123:8 124:7	Texas Rocco LLC	2014-11-24	TEXROC00000685	2014-12-10	TEXROC00000621	2015-02-25	TEXROC00000089	2015-08-07	TEXROC00000089
The Throckmorton Advisors 401(k) Plan	18-cv-10086-LAK	30,664,208.23	4,818,000.00	SKAT_MDL_001_035533	Matthew Tucci	Recruiter	M. Tucci Tr. 114:20-118:17	Throckmorton Advisors LLC	2014-08-29	THRCKMRTON00000363 (at 384)	2014-09-30	THRCKMRTON00000363	2014-11-27	THRCKMRTON00000113	2015-08-07	THRCKMRTON00000132
The TKKJ LLC 401(k) Plan	18-cv-04896-LAK	33,001,565.57	5,134,000.00	SKAT_MDL_001_036813	Thomas Kertelits	Joined Through Jonathan Godson	T. Kertelits Tr. 29:6-16	TKKJ LLC	2013-12-27	TKKJ00000231	2014-01-17 (Trust)	TKKJ00000209	2014-02-26	TKKJ00000087	2014-08-07	TKKJ00000087
The Valerius LLC Solo 401(k) Plan	18-cv-10129-LAK	35,970,976.27	5,632,000.00	SKAT_MDL_001_039115	Roger Lehman	Recruiter	R. Lehman Tr. 413:23-414:24	Valerius LLC	2013-06-25	VALER00000242	2013-07-09 (Trust)	VALER00000273	2014-03-06	VALER00000098	2014-12-04	VALER00000098
The Wave Maven LLC 401(k) Plan	18-cv-10066-LAK	49,943,454.02	8,003,000.00	SKAT_MDL_001_00088098	Hayden Guli	Matthew Tucci's Stepson	M. Tucci Tr. 117:9 11	Wave Maven LLC	2014-08-29	WAVEMVN00000457	2014-10-03	WAVEMVN00000320; WAVEMVN00000409	2014-11-27	WAVEMVN00000985	2015-08-07	WAVEMVN00000075

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The West River Pension Plan	18-cv-05193-LAK	26,409,509.94	4,135,000.00	SKAT MDL 001 00085047	Cynthia Crescenzo	Gavin Crescenzo's Mother	G. Crescenzo Tr. 41:21-24	West River Capital LLC	2014-12-18	WESTRIV00000298	2014-12-31	WESTRIV00000323	2015-02-25	WESTRIV00000064	2015-08-07	WESTRIV00000064
The Westport Advisors LLC 401(k) Plan	18-cv-05183-LAK	27,865,992.14	4,363,000.00	SKAT MDL 001 00087945	Cynthia Crescenzo	Gavin Crescenzo's Mother	G. Crescenzo Tr. 41:21-24	Westport Advisors LLC	2014-12-17	WESTPORT00000293	2014-12-31	WESTPORT00000318	2015-02-25	WESTPORT00000057	2015-08-07	WESTPORT00000057
The Westridge Ave LLC 401(k) Plan	18-cv-09665-LAK	26,715,478.60	4,298,000.00	SKAT MDL 001 013881	Matthew D Patrick	Roger Lehman's Brother's Friend	R. Lehman Tr. 413:23-414:24	Westridge Ave LLC	2014-11-20	WESTRIDGE00000283; WESTRIDGE00000314	2014-12-04	WESTRIDGE00000343	2015-02-25	WESTRIDGE00000061	2015-08-07	WESTRIDGE00000061
The Zen Training LLC 401(k) Plan	18-cv-10062-LAK	28,369,696.82	4,565,200.00	SKAT MDL 001 00088323	Thomas Reilly	Matthew Tucci's Cousin	M. Tucci Tr. 118:67	Zen Training LLC	2014-08-29	ZENTRNG00000487	2014-10-03	ZENTRNG00000350; ZENTRNG00000442	2014-11-27	ZENTRNG00000851	2015-08-07	ZENTRNG00000075

APPENDIX K

Plan	Case No.	Damages (DKK)	Damages (USD)	Participant(s)	Sponsoring Entity Name	Sponsoring Entity Formation Date	Citation	Plan Formation Date	Citation	First Trade Date	Citation	Final Trade Date	Citation
Acorn Capital Strategies LLC Employee Pension Profit Sharing Plan & Trust	18-cv-10088-LAK	29,408,337.90	4,605,000.00	Gregory Summers	Acorn Capital Strategies, LLC	N/A	N/A	January 2, 2006	ED&F-00006973	N/A	Summers000327	March 31, 2014	Acorn_Production4
American Investment Group of New York, L.P. Pension Plan	18-cv-09841-LAK	21,060,000.00	3,388,000.00	Robert Crema	American Investment Group of New York, L.P.	June 17, 1984	AIG_00000368	January 1, 2002	ACER_00009302	December 5, 2013	AIG_00000017	March 30, 2015	ACER_00009421
Cambridge Way LLC 401K Profit Sharing Plan	18-cv-10090-LAK	36,912,580.20	5,780,000.00	Shreepal Shah	Cambridge Way, LLC	January 1, 2013	ED&F-00027591	January 1, 2013	ED&F-00027603	November 26, 2013	ED&F-00184076	May 8, 2014	ED&F-00240512
Del Mar Asset Management Saving & Retirement Plan	18-cv-05374-LAK	55,486,998.00	8,688,000.00	David Freelove	Del Mar Asset, Management L.P.	N/A	N/A	March 30, 2010	DELM000001_01133	April 11, 2013	DELM000001	May 8, 2014	DELM000001
DW Construction, Inc. Retirement Plan	18-cv-09797-LAK	13,603,950.00	2,130,000.00	Darren Wittwer	D.W. Construction, Inc.	November 15, 2006	DWC_00000411	February 23, 2011	ACER_00015181	March 18, 2014	ACER_00009656	December 4, 2014	DWC_00000156
Federated Logistics LLC 401(K) Plan	18-cv-08655-LAK	32,265,000.00	5,052,000.00	David Freelove	Federated Logistics, LLC	N/A	N/A	February 24, 2014	FEDL000001	March 18, 2014	FEDL000000 (pages 470, 471)	August 7, 2014	FEDL000000 (pages 481, 482)
JSH Farms LLC 401(K) Plan	18-cv-09489-LAK	2,342,582.32	366,000.00	Jaime Hofmeister	JSH Farms, LLC	March 1, 2012	TEWD_0083034	March 1, 2012	TEWD_0012700	February 28, 2013	TEWD_0052249	March 21, 2013	ED&F-00152165
Kamco Investments, Inc. Pension Plan	18-cv-09836-LAK	10,496,991.15	1,643,000.00	Louise Kaminer	Kamco Investments, Inc.	December 11, 1987	KAMINV_00000495	October 29, 2002	KAMINV_00000193	March 6, 2014	KAMINV_00000001	March 30, 2015	ACER_00007335; ACER_00007272
Kamco LP Profit Sharing Pension Plan	18-cv-09837-LAK	15,313,356.72	2,397,000.00	Stacey Kaminer	Kamco, L.P.	December 23, 1987	KAML_P_00000503	January 1, 1999	AIGKAMCO_00001032	March 6, 2014	ACER_00009895	August 7, 2014	KAML_P_00000001
KK Law Firm Retirement Plan Trust	18-cv-10127-LAK	3,929,349.53	615,000.00	Kevin Kenning	Kevin Kenning (sole proprietor)	N/A	N/A	February 23, 2011	KENNING00000536	November 27, 2012	KENNING00001687	April 1, 2014	KENNING00001687
KRH Farms LLC 401(K) Plan	18-cv-09491-LAK	2,261,343.10	354,000.00	George Hofmeister	KRH Farms, LLC	March 1, 2012	TEWD_0012746	March 1, 2012	TEWD_0012746	February 28, 2013	ED&F-00152179	March 21, 2013	ED&F-00152179
Linden Associates Defined Benefit Plan	18-cv-09838-LAK	13,168,507.50	2,062,000.00	Joan Schulman	Joan Schulman (sole proprietor)	N/A	N/A	January 1, 1995	LIND_00001894	March 6, 2014	ACER_00010111	March 19, 2015	ACER_00010188
MGH Farms LLC 401(K) Plan	18-cv-09439-LAK	2,325,282.15	364,000.00	Megan Hofmeister	MGH Farms, LLC	March 1, 2012	TEWD_0012792	March 1, 2012	TEWD_0012792	February 28, 2013	ED&F-00152192	March 21, 2013	ED&F-00152192
Moir Associates LLC 401(K) Plan	18-cv-09839-LAK	16,989,750.00	2,660,000.00	Stacey Kaminer	Moir Associates, LLC	June 20, 2003	MOIR_00000289	March 18, 2011	ED&F Man00002295	February 26, 2014	ED&F-00186452	December 4, 2014	ACER_00010348; MOIR_00000172
Newsong Fellowship Church 401(K) Plan	18-cv-10100-LAK	4,245,750.00	664,000.00	Alexander Jamie Mitchell III	Newsong Fellowship Church	N/A	N/A	January 21, 2003	ED&F Man00000872	March 6, 2014	NEW_00000832; NEW_0000832-903	September 24, 2014	NEW_00000094

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Riverside Associates Defined Benefit Plan	18-cv-09840-LAK	12,724,425.00	1,992,000.00	David Schulman	David Schulman (sole proprietor)	N/A	RIVER_00001953	November 1, 2009	ACER_00000330	March 6, 2014	ACER_00010585	March 19, 2015	ACER_00010662
SRH Farms LLC 401(K) Plan	18-cv-09434-LAK	2,376,732.41	372,000.00	Scott Hofmeister	SRH Farms, LLC	March 1, 2012	TEWD_0011932	March 1, 2012	TEWD_0011932	February 28, 2013	ED&F-00152218	March 21, 2013	ED&F-00152218
Sterling Alpha LLC 401(K) Profit Sharing Plan	18-cv-04894-LAK	12,683,520.00	1,973,000.00	John Doscas	Sterling Alpha, LLC	N/A	N/A	January 1, 2007	STEA000000_00002	August 8, 2012	Summers000327	N/A	N/A
The Goldstein Law Group PC 401(K) Profit Sharing Plan	18-cv-05053-LAK	9,521,280.00	1,490,000.00	Sheldon Goldstein, Scott Goldstein	The Goldstein Law Group, P.C.	N/A	N/A	January 1, 1999	GOLD_0001023	March 6, 2014	ACER_00011447	March 19, 2015	ACER_00011422
Triton Farms LLC 401(K) Plan	18-cv-09490-LAK	2,338,133.28	366,000.00	Scott Hofmeister	Triton Farms LLC	March 6, 2007	Public Records	March 1, 2012	ED&F-00010732	February 27, 2013	ED&F-00076230-ED&F-00076302	March 21, 2013	ED&F-00038716-ED&F-00038743